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A Collection of Statutes Relating to India

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OF

STATUTES RELATING TO INDIA,

PASSED BETWEEN THE

YEARS 1855 AND 1866,

BOTH INCLUSIVE,

BEING A

SUPPLEMENT

TO

"THE LAW RELATING TO INDIA AND THE EAST INDIA COMPANY."

(Fifth Edition).

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18 VICTORIÆ, CAP. IV.

AN ACT *to amend the Act for limiting the time of service in the Army.*

[27*th February* 1855].

Preamble.

WHEREAS by an Act passed in the Session holden in the tenth and eleventh years of Her Majesty, Chapter thirty-seven, "for limiting the time of service in the Army," it was enacted, that no person should be enlisted to serve Her Majesty, or in the forces of the *East India* Company, as a soldier, for a longer term than ten years in the Infantry or twelve years in the Cavalry or Artillery, or other Ordnance Corps, to be reckoned from the day on which the recruit should have been attested, if he should have stated himself to be then of the age of eighteen years, or if not, then from the day on which he would complete the age of eighteen years, to be reckoned according to the age stated in his attestation: And it was thereby also enacted, that any soldier at any time during the last six months of the term of limited service for which he should have been first engaged, or after the completion of such term, might, if approved by his Commanding Officer or other competent military authority as a fit person to continue in Her Majesty's service or in the service of the *East India* Company as a soldier, be re-engaged to serve for the further term of eleven years in the Infantry and twelve years in the Cavalry or Artillery, or other Ordnance Corps; and that any soldier who should be ordered on foreign service, and who was within three years of the expiration of his first engagement, should be at liberty, with the approbation of his Commanding Officer, to re-engage before he embarked for such foreign service for such period as should complete a total service of twenty-one years in the Infantry or twenty-four years in the Cavalry or Artillery: And whereas by an Act passed in the Session

10 & 11 Vic., c. 37.

12 & 13 Vic., c. 72.

holden in the twelfth and thirteenth years of Her Majesty, Chapter seventy-three, "to limit the enlistment in the Artillery and other Ordnance Corps," it was enacted, that during the last six months of the term of limited service for which a soldier should have first engaged to serve in the Artillery or other Ordnance Corps, or after the completion of such term, he might, if approved by his Commanding Officer or other competent military authority as a fit person to continue in Her Majesty's service as a soldier, be re-engaged to serve for the further term of nine years: And whereas by reason of directions contained in Schedules to the said first-recited Act, for filling up blanks in the forms of questions to be put to recruits on enlisting, it is apprehended that it may not be lawful to enlist persons to serve as soldiers for lesser terms than the said terms of ten years and twelve years respectively: And whereas it is expedient that Her Majesty should be enabled to permit enlistment for such lesser terms, and to authorize soldiers to re-engage for any terms within the limits of service prescribed by the said Acts: Be it enacted, &c.

Power to Her Majesty, by order in Council, for three years after passing of Act, to lessen terms for enlistment and re-engagement of soldiers.

I. For three years after the passing of this Act any person may be enlisted to serve Her Majesty, or in the forces of the *East India* Company, as a soldier, for any such term, not exceeding ten years in the Infantry or twelve years in the Cavalry or Artillery, or other Ordnance Corps (to be reckoned as provided in the said first-mentioned Act), as may be authorized by any order or orders of Her Majesty in Council in this behalf; and any soldier may, subject to such approbation as in the said Acts mentioned, re-engage for such term as may by such order or orders in Council be authorized; provided the term for which he is so engaged, with the term of his service under his first enlistment, do not exceed the period of twenty-one years in the Infantry or Artillery, or other Ordnance Corps, or twenty-four years in the Cavalry; and the forms of questions on enlistment in Schedule A to the said first-mentioned Act, and the form of declaration in Schedule B to such Act, may, when the occasion requires, be filled up with such term or number of years as may be authorized by such order or orders, instead of the term or number of years mentioned in the directions contained in such Schedules.

Recited Acts and this Act to be read as one.

II. The said Acts of the tenth and eleventh years and twelfth and thirteenth years of Her Majesty and this Act shall be read and construed together as one Act.

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18 & 19 VICTORIÆ, CAP. LIII.

AN ACT *to relieve the East India Company from the obligation to maintain the College at Haileybury.*

[16*th July* 1855].

(1) [College to be discontinued.]

(2) [No Student to be admitted after 25th January 1856.]

(3) [Students certified at the last examination in 1857 to be qualified may be admitted to the Service of the Company.]

(4) [Commissioners to determine questions of priority of rank.]

(5) [Power to Company to sell College, &c.]

(6) [As to compensations to Officers, &c.]

18 & 19 VICTORIÆ, CAP. XCIII.

An Act *to amend certain Acts relating to the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca, and to the Supreme Courts of Judicature in India.*

[14*th August* 1855].

Preamble.

Whereas by Letters Patent of His late Majesty King *George* the Fourth His said late Majesty ordained that there should be within the Settlement of *Prince of Wales' Island, Singapore,* and *Malacca* a Court of Judicature to be holden before the Governor and the Resident Councillor for the time being of the Station where the Court should be held, as two of the Judges of the said Court, and before one other Judge called the Recorder of *Prince of Wales' Island, Singapore,* and *Malacca:* And whereas by Letters Patent of His late Majesty King *William* the Fourth, granted under the powers of the Act of the sixth and seventh years of His Reign, Chapter eighty-three, His said late Majesty granted to the said Court of Judicature the powers of a Court of Admiralty: And whereas by Letters Patent of Her present Majesty, granted in the present year of Her Reign, Her said Majesty has ordained that the said Court of Judicature should consist of two Courts or Divisions, one of which shall be holden within the Stations of *Singapore* and *Malacca* before the Governor or President and the Resident Councillor for the time being of the Station, where the same shall be held, and before one other Judge called the Recorder of *Singapore,* and the other of which Courts or Divisions shall be holden within the Station of *Prince of Wales' Island* before the said Governor or President and the Resident Councillor for the time being of the Station where the same shall be held, and before the other Judge, who shall be called the Recorder of *Prince of Wales' Island,* and that all the powers of the said Court of Judicature shall and may be exercised by each of the said Courts or Divisions, together with various other provisions concerning the same: And whereas, in consequence of the alteration made by the last-mentioned Letters Patent in the constitution of the said Court of Judicature, it is desirable to amend the several Acts of Parliament hereinafter mentioned: Be it enacted, &c.

Sections 5, 7, 13, 14 and 16 of 6 G. 4. c. 85, to apply to Recorders of Singapore and Prince of Wales' Island.

I. The provisions contained in the Statute of the sixth year of *George* the Fourth, Chapter eighty-five, Sections five, seven, thirteen, fourteen, and sixteen, respecting the Recorder of the Court of Judicature of *Prince of Wales' Island,* and respecting the grant of an allowance to him on retirement, and respecting the computation of the time of residence in case he shall be appointed a Judge of one of the Supreme Courts in *India* shall apply to the Recorder of *Singapore* and to the Recorder of *Prince of Wales' Island* respectively, and residence partly as one and partly as the other of such Recorders shall be reckoned as if such residence had been wholly in the same capacity: Provided always, that (save and except only in the case of the present Recorder of *Singapore,* who was appointed to the office of Recorder of *Prince of Wales' Island, Singapore,* and *Malacca* prior to the lastly-recited Letters Patent,) it shall not be lawful to grant to any Recorder of *Singapore* or Recorder of *Prince of Wales' Island* any larger retiring allowance than the sum of five hundred pounds, unless he shall have resided as Recorder for ten years, nor if he shall have resided for that period any larger allowance than the sum of eight hundred pounds.

Sum to be paid to Recorders for equipment and voyage.

II. In lieu of the sum which by the Act of the fifty-third year of *George* the Third, Chapter one hundred and fifty-five, Section eighty-nine, is directed to be paid to any Recorder of *Prince of Wales' Island* for the expenses of his equipment and voyage, the Court of Directors of the *East India* Company shall pay to the person who by the said Letters Patent of Her Majesty has been appointed Recorder of *Prince of Wales' Island*, and to every person to be hereafter appointed Recorder of *Singapore* or Recorder of *Prince of Wales' Island* who shall be resident in the United Kingdom at the time of his appointment, for the purpose of defraying the expenses of his equipment and voyage, the sum of five hundred pounds.

Court for Relief of Insolvent Debtors may be held by either of the Recorders

III. The Court for Relief of Insolvent Debtors, which by the Statute of the eleventh and twelfth years of Her present Majesty, Chapter twenty-one, Section eighty-eight, is directed to be held within the said Settlement, may henceforth be held by the Recorder of *Singapore* and by the Recorder of *Prince of Wales' Island* respectively, each of whom is hereby empowered and required to hold such Court, and to appoint proper officers, assignees and examiners for enabling the provisions of such Act to be carried into effect, and to establish rules as to the advocates and attornies and agents who may practise in the said Court before such Recorder; and the several other powers given by the said Act to the Court of Judicature of *Prince of Wales' Island, Singapore*, and *Malacca* shall and may be henceforth exercised by the Governor of the said Settlement and the said Recorders, or by any two of them.

Act 6 & 7 W. 4, cap 53, to apply to the present Charter, which is confirmed.

IV. The Act of the sixth and seventh years of King *William* the Fourth, Chapter fifty-three, for enabling His late Majesty, by Letters Patent, to grant Admiralty jurisdiction to the Court of Judicature of *Prince of Wales' Island, Singapore*, and *Malacca*, shall be construed to apply to the said Letters Patent or Charter of Her present Majesty, and such Charter is hereby in all respects ratified and confirmed.

As to allowances to Judges of the Supreme Courts in India on retirement.

V. And whereas doubts have been entertained whether the provisions of the Act of the Sixth *George* the Fourth, Chapter eighty-five, respecting the grant of allowances to the Judges of the Superior Courts in *India* on retirement, apply to cases where the required period of residence as a Judge has been partly as a Judge of one and partly as a Judge of another of the said Supreme Courts: Be it enacted, that for the purpose of the said last-mentioned provisions residence in *India* as a Judge of any of the said Supreme Courts (though such residence shall have been partly as a Judge of one of the said Supreme Courts and partly as a Judge of another of such Courts) shall be computed and reckoned as residence as a Judge of the Supreme Court to which the Judge shall belong at the time of his retirement: Provided always, that in the case of any Judge retiring from the Supreme Court of Judicature at *Fort William* whose period of residence in *India* as a Judge shall have been partly as a Judge of the Supreme Court at *Madras* or *Bombay*, it shall not be lawful to grant to such Judge any larger allowance than might have been granted if he had been during his whole period of residence a Judge of the Supreme Court at *Madras* or *Bombay*, unless he shall have resided as a Judge of the Supreme Court at *Fort William* for five years at the least.

18 & 19 VICTORIÆ, CAP. XCVI, SEC. 16.

An Act *to consolidate certain Acts, and otherwise amend the laws of the Customs, and an Act to regulate the Office of the receipt of Her Majesty's Exchequer at Westminster.*

[14*th August* 1855.]

Powers of Commissioners of Customs as to colonies extended to Governors, &c.

XVI. The powers and authorities now vested in the Commissioners of Customs with regard to any act or thing relating to the Customs or to trade or navigation in any of the *British* possessions abroad shall, from and after the passing of this Act, be vested in the Governor, Lieutenant-Governor, or other person administering the government in any such possession, and every act required by any law to be done by or with any particular officer or at any particular place, if done by or with any such officer or at any place appointed or nominated by such Governor, Lieutenant-Governor, or other person so administering such government, shall be deemed to have been done by or with such particular officer or at such particular place, as the case may be, and as required by law; and all commissions, deputations, and appointments granted to any officers of Customs in force at the commencement of this Act shall have the same force and effect to all intents and purposes as if the same had been granted or made in the first instance by such Governor, Lieutenant-Governor, or person so administering the Government of any such possession; and all bonds or other securities which shall have been given by or for any such officers and their respective securities for good conduct or otherwise shall remain in force, and shall and may be enforced and put in suit at the instance of or by directions of any such Governor, Lieutenant-Governor, or person administering the government of any such possession.

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18 & 19 VICTORIÆ, CAP. CIV.

An Act *for the Regulation of Chinese Passenger Ships.*

[14*th August* 1855.]

Preamble.

Whereas abuses have occurred in conveying emigrants from ports in the *Chinese* Seas: And whereas it is expedient to prevent such abuses: Be it enacted, &c.

Definition of certain terms herein mentioned.

I. In the construction of this Act the term "*Chinese* Passenger Ship" shall include every ship carrying from any port in *Hong Kong*, and every *British* ship carrying from any port in *China* or within one hundred miles of the coast thereof, more than twenty passengers, being natives of *Asia*; the word "Colony" shall include all Her Majesty's possessions abroad not being under the Government of the *East India* Company; the word "Governor" shall signify the person for the time being lawfully administering the government of such colony; the term "Legislature of *Hong Kong*" shall signify the Governor and Legislative Council or other legislative authority of the same for the time being; the word "Ship" shall include all sea-going vessels; the terms "Commander" and "Master" of any ship shall include any person for the time being in command or charge of the same; the term "Emigration Officer" shall include every person lawfully acting as Emigration Officer, Immigration Agent or Protector of Emigrants, and every person authorized by the

Governor of any *British* colony to carry out the provisions of this Act; and the term "*British* Consul" shall include every person lawfully exercising consular authority on behalf of Her Majesty in any foreign port.

Legislature of Hong Kong to make regulations respecting passenger ships, &c.

II. It shall be lawful for the legislature of *Hong Kong*, by any Ordinance to be by them enacted for that purpose, to make Regulations respecting *Chinese* passenger ships, and, in the case of *British* ships, respecting the treatment of the passengers therein while at sea, and until such enactment the Regulations contained in Schedule (A) to this Act annexed shall be in force: Provided always, that no such Ordinance shall come into operation until Her Majesty's confirmation of the same shall have been proclaimed in *Hong Kong* by the Governor thereof.

Governor of Hong Kong to declare length of voyages.

III. It shall be lawful for the Governor of *Hong Kong* to declare, by proclamation, for the purposes of this Act and of the said Regulations, what shall be deemed to be the duration of the voyage of any *Chinese* passenger ship, and by such proclamation to alter the scales of dietary, medicines, and medical comforts contained in the aforesaid Schedule (A).

No Chinese passenger ship to clear out on voyage of more than seven days without Emigration Officer's certificate and copy of Regulations, nor until bond be given to Crown.

IV. No *Chinese* passenger ship shall clear out or proceed to sea on any voyage of more than seven days' duration until the master thereof shall have received from an Emigration Officer a copy of the aforesaid Regulations, and a certificate in the form contained in Schedule B to this Act annexed, or in such other form as may be prescribed by the said legislature, which copy and certificate, with any documents to be attached thereto (hereinafter designated as emigration papers), shall be signed by the said Emigration Officer, nor until the master shall, with two sufficient sureties, to be approved by the said Emigration Officer, have entered into a joint and several bond in the sum of one thousand pounds to Her Majesty, Her Heirs and Successors, in the form contained in Schedule C to this Act annexed, or in such other form as shall be prescribed by the said legislature.

Penalty of bond, when recoverable.

V. The said penal sum of one thousand pounds shall be due and recoverable notwithstanding any penalty or forfeiture imposed by this Act or by the aforesaid Regulations, and whether such penalties or forfeitures shall have been sued for and recovered or not.

Commander of ships of War, &c., may search ships, or require production of papers.

VI. It shall be lawful for the Commander of any of Her Majesty's Ships of War, or for any Emigration Officer, Custom House Officer, or *British* Consul, to enter and search any *Chinese* passenger ship (being a *British* vessel or within *British* jurisdiction) so long as such ship shall have any passengers on board, and for forty-eight hours afterwards, and in case such ship shall be engaged on a voyage of more than seven days' duration, to require the production of the emigration papers of such ship, and to examine all persons on board of the same, in order to ascertain whether the provisions of this Act and of the Regulations aforesaid have been complied with; and any person who refuses to allow, attempts to avoid, or obstructs any such entry, search, or examination, or who knowingly misleads or deceives any person lawfully making any such search or examination, or who, being the master of the ship or having the emigration papers in his custody, fails to produce the same when required as aforesaid, shall be deemed guilty of a misdemeanor.

Penalty for neglect to comply with Regulations, &c.

VII. In case of any neglect or refusal to comply with any of the provisions of this Act or any of the Regulations aforesaid, or to perform any stipulation in any of the contracts made with the passengers, the master of the ship, and any other person who may have been guilty of or have aided or abetted such neglect or refusal, shall each be deemed for each offence guilty of a misdemeanor.

Ship to be forfeited for clearing without emigration papers, or for forgery of such papers.

VIII. If any *Chinese* passenger ship clears out or proceeds to sea on any voyage exceeding seven days in duration without such emigration papers as aforesaid, or if the emigration papers of any *Chinese* passenger ship are forged or fraudulently altered, such ship shall, if she is a *British* ship, or if, not being a *British* ship, the offence is committed and the ship is seized in Her Majesty's dominions or in the territories of the *East India* Company, be forfeited to Her Majesty.

Penalties in addition to forfeiture.

IX. Every person who commits or aids or abets in committing any act or default by which any *Chinese* passenger ship may become liable to forfeiture shall be liable to a penalty not exceeding one hundred pounds for each offence.

Mode of enforcing forfeiture.

X. It shall be lawful for any Commissioned Officer on full pay in the Military or Naval Service of Her Majesty, or any *British* Officer of Customs, or any *British* Consul, to seize and detain any ship which has become subject to forfeiture as aforesaid, and bring her for adjudication before the High Court of Admiralty in *England* or *Ireland*, or any Court having Admiralty jurisdiction in Her Majesty's dominions or in the territories of the *East India* Company, and such Court may thereupon make such order in the case as it thinks fit, and may award such portion of the proceeds of the sale of any forfeited ship as it thinks right to the officer bringing in the same for adjudication, or to any persons damaged by the act or default which has rendered the ship liable to forfeiture.

Officer not liable for any seizure made on reasonable grounds.

XI. No such officer as aforesaid shall be responsible, either civilly or criminally, to any person whomsoever, in respect of the seizure or detention of any ship that has been seized or detained by him in pursuance of the provisions herein contained, notwithstanding that such ship is not brought in for adjudication, or, if so brought in, is declared not to be liable to forfeiture, if it is shown to the satisfaction of the Judge or Court before whom any trial relating to such ship or such seizure or detention is held that there are reasonable grounds for such seizure or detention; but if no such grounds are shown, such Judge or Court may award payment of costs and damages to any party aggrieved, and make such other order in the premises as he or it thinks just.

Fine may be substituted for forfeiture.

XII. It shall be lawful for the Court before which any ship liable to forfeiture under this Act is proceeded against to impose such a pecuniary penalty as to the same Court shall seem fit, in lieu of condemning the ship, and in such case to cause the ship to be detained until the penalty is paid, and to cause any penalty so imposed to be applied in the same manner in which the proceeds of the said ship, if condemned and sold by order of the Court, would have been applicable.

Mode of procedure in criminal cases.

XIII. All misdemeanors and other criminal offences punishable under this Act shall be dealt with, tried, and judged of in the same manner as misdemeanors and other offences punishable under the Merchant Shipping Act, 1854, and all the rules of law, practice, or evidence applicable to the last-mentioned misdemeanors and offences shall be applicable to misdemeanors and other offences under this Act.

Application of penalties.

XIV. Any Court, Justice, or Magistrate imposing any penalty under this Act for which no specific application is herein provided may, if it or he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or in or towards payment of the expenses of the proceedings; and, subject to such directions or specific application as aforesaid, all penalties recovered in the United Kingdom shall be paid into the receipt of Her Majesty's Exchequer in such manner as the Treasury may direct, and shall be carried to and form part of the consolidated fund of the United Kingdom; and all penalties recovered in any *British* possession shall be paid over into the public Treasury of such possession, and form part of the public revenue thereof.

Written declarations of commanders, &c., *primâ facie* evidence.

XV. In any legal proceeding taken under this Act or in respect of the bond hereinbefore required any document purporting to be the written declaration of any *British* Consul, or of the Commander of any of Her Majesty's Ships of War, or to be a copy of the proceedings of any Court of Justice, shall, without any proof of signature, be received in evidence, in case it shall appear that such copy or declaration, if produced in the United Kingdom, was officially transmitted to one of Her Majesty's Principal Secretaries of State, or, if produced in any colony, was officially transmitted to the Governor thereof: Provided always, that no person making such written declaration as aforesaid shall be capable of receiving a share of any penalty or forfeiture which shall be procured by such written declaration.

Short title.

XVI. This Act may be cited for any purpose whatever under the name of the "*Chinese* Passengers' Act, 1855."

Commencement of Act.

XVII. This Act shall come into operation as soon as it shall have been proclaimed in *Hong Kong* by the Governor thereof, or if not so proclaimed, on the first day of *January* next ensuing.

SCHEDULE. (A).

Regulations respecting Chinese Passenger Ships.

Note.—The wilful and fraudulent breach of any of these Regulations by the person in charge of any Chinese passenger ship is punishable by forfeiture of the ship, and every person concerned in such breach is liable to a fine of one hundred pounds for each offence.

I. No Chinese passenger ship shall clear out or proceed to sea on any voyage of more than seven days' duration without a certificate from an Emigration Officer; and such certificate shall be in the form provided by the Chinese Passenger Act, 1855.

II. No Emigration Officer shall be bound to give such certificate in respect of any Chinese passenger ship till seven days after receiving notice that the ship is to carry passengers, and of her destination, and of her proposed day of sailing, nor unless there are on board a surgeon and interpreter approved by such Emigration Officer.

III. After receiving such notice the Emigration Officer shall be at liberty at all times to enter and inspect the ship, and the fittings, provisions, and stores therein, and any person impeding him in such entry or inspection, or refusing to allow of the same, shall be liable to a fine of not more than one hundred pounds for each offence.

IV. The Emigration Officer shall not give his certificate unless he shall be satisfied,—

(1.) That the ship is seaworthy, and properly manned, equipped, fitted, and ventilated; and has not on board any cargo likely, from its quality, quantity, or mode of stowage, to prejudice the health or safety of the passengers:

(2.) That the space appropriated to the passengers in the 'tween decks contains at the least twelve superficial and seventy-two cubical feet of space for every adult on board; that is to say, for every passenger above twelve years of age, and for every two passengers between the ages of one year and twelve years:

(3.) That a space of five superficial feet per adult is left clear on the upper deck for the use of the passengers:

(4.) That provisions, fuel, and water have been placed on board, of good quality, properly packed, and sufficient to supply the passengers on board during the declared duration of the intended voyage, according to the following scale:—

DIETARY SCALE.

Rice	lbs.	1½	per diem.
Salted provisions,—			
Wholly pork; or	lb.	½	do.
⅔ pork and ⅓ fish; or			
⅓ pork, ⅓ beef, and ⅓ fish			
Salted vegetable or pickles	„	½	do
Water, imperial quarts		3	do.
Firewood	lbs.	2	do.
Tea	oz.	½	do.

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(5.) That medicines and medical comforts have been placed on board according to the following scale:—

SCALE OF MEDICINES AND MEDICAL COMFORTS.

For every 100 passengers, and in like proportion for any greater or less number.

Calomel	3	oz.	
Blue pill	2	„	
Rhubarb powder	2	„	
Compound jalap powder	12	„	
Ipecacuanha powder	12	„	
Opium	2	„	
Dover's powder	2	„	
Magnesia	2	„	
Epsom salts	6	lbs.	
Chloride of lime	20	„	
Tartar emetic	4	drams.	
Quinine	2	oz.	
Antimonial powder	½	„	
Extract of colocynth, compound	1	„	
Carbonate of ammonia	1½	„	
Assafœtida	1	„	
Camphor	1½	„	
Camphorated liniment	16	„	
Catechu	2	„	
Prepared chalk	2	„	
Tincture of opium	8	„	
Turpentine	16	„	
Senna leaves	8	oz.	
Blistering plaister	8	„	
Sulphur sublimed	16	„	
Sulphur, ointment	12	„	
Linseed flour	4	lbs.	
Country soap	24	oz.	
Castor oil	6	bottles.	
Oil of peppermint	2	oz.	
Adhesive plaister, spread	2	yards.	
Simple ointment	16	oz.	
Ringworm ointment	16	„	
Jeremie's opiate	2	oz. phial.	
Aromatic spirits of hartshorn	4	„	
Cholera pills in phial	12	drams.	
Cubebs powder	4	lbs.	
Sweet spirits of nitre	16	oz.	
Copaiba	16	„	
Sulphate of copper	2	„	
Sulphate of zinc	1	„	
Lunar caustic	4	drams.	
Lime juice	36	quarts.	
Rum or brandy	36	„	

INSTRUMENTS, &c.

1 Set of amputating and other surgical instruments (if there be any person on board competent to use them.)
1 One ounce glass measure.
1 Minim glass measure.
1 Pestle and mortar (Wedgewood.)
1 Set of weights and scales (grains in box).
1 Set of common splints.
1 Set of bleeding lancets.
1 Silver catheter.
1 Spatula.
1 Dressing scissors.
1 Infusion box.
1 Quire of country paper.
1 Penknife.
2 Metal bed pans.
2 Trusses for hernia, right and left.
2 Small syringes.
4 Ounces prepared lint.
2 Pieces cloth for bandages.

V. The master of any Chinese passenger ship being a British ship and proceeding on a voyage of more than seven days' duration shall, during the whole of the intended voyage, make issues of provisions, fuel, and water, according to the aforesaid dietary scale, and shall not make any alteration, except for the manifest advantage of the passengers, in respect of the space allotted to them as aforesaid, or in respect of the means of ventilation, and shall not ill-use the passengers, or require them (except in case of necessity) to help in working the vessel; and shall issue medicines and medical comforts, as shall be requisite, to the best of his judgment, and shall call at such ports as may be mentioned in the

Emigration Officer's clearing certificate for fresh water and other necessaries; and shall carry them without unnecessary delay to the destination to which they have contracted to proceed.

VI. The Emigration Officer shall not give his certificate until he shall have mustered the passengers, and have ascertained to the best of his power that they understand whither they are going, and comprehend the nature of any contracts of service which they have made; he shall also take care that a copy of the form of such contracts, or an abstract of their substance, signed by himself, is appended to the said certificate: If any of the passengers are in bad health, or insufficiently provided with clothing, or if the contracts are unfair, or if there is reason to suspect that fraud or violence have been practised in their collection or embarkation, he may detain the ship, and, if he shall think fit, may order all or any of the passengers to be re-landed.

SCHEDULE (B).

Emigration Officer's Certificate, &c.

I hereby authorize the Chinese passenger ship to proceed to sea for the port of in ; and I certify that the said ship can legally carry adults, and that there are on board passengers, making in all adults, *viz.*, men, women, male children, and female children, such children being between the ages of one and twelve years; that the space set apart and to be kept clear for the use of such emigrants is as follows:— On the upper deck, superficial feet, being [*here describe the space*], and in the between decks superficial feet, being [*here describe the space*]; that the ship is properly manned and fitted, and that the means of ventilating the part of the between decks appropriated to passengers are as follows, [*here describe the means of ventilation*]; that the ship is furnished with a proper quantity of good provisions, fuel, and water for days' issues to the passengers according to the annexed* dietary scale, and with a proper quantity of medicines, instruments, and medical comforts according to the annexed* scale of medical necessaries; that I have inspected the contracts between the emigrants and their intended employers (the terms of which are annexed to this certificate), and consider them reasonable; that no fraud appears to have been practised in collecting the emigrants; and that there are on board a surgeon † [and interpreter] approved by me, and designated [respectively and].

‡ [The master of the ship is to put into and for water and fresh vegetables].

(Signed)

Emigration Officer.

Dated this day of 18

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* These scales must be those prescribed by the Regulations in Schedule A.

† In case the ship has been authorized to proceed without an interpreter omit the part between brackets, and add "and that the ship has been authorized to proceed without an interpreter."

‡ The part between brackets is to be inserted or not, as may be required.

SCHEDULE (C).

FORM OF BOND TO BE GIVEN BY THE MASTERS OF CHINESE PASSENGER SHIPS.

Know all men by these presents, That we are held and firmly bound unto our Sovereign Lady Queen Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland Queen, defender of the faith, in the sum of one thousand pounds of good and lawful money of Great Britain, to be paid to our said Sovereign Lady the Queen, Her Heirs and Successors; to which payment, well and truly to be made, we bind ourselves and every of us, jointly and severally, for and in the whole, our heirs, executors, administrators, and every of them, firmly by these presents.

Sealed with our seals.

Dated this day of 18 .

Whereas by the Chinese Passenger Act, 1855, it is enacted, that before any Chinese passenger ship shall clear out or proceed to sea on a voyage of more than seven days' computed duration, the master thereof shall, with two sufficient sureties to be approved by an Emigration Officer, enter into a bond to her Majesty, Her Heirs and Successors, in the sum of one thousand pounds.

Now the condition of this obligation is this, that if (in respect of the ship , whereof is master) all and every of the requirements of the said Chinese Passenger Act, and of the Regulations contained in Schedule (A) to the said Act annexed, or enacted by the legislature of Hong Kong, shall be well and truly observed and performed [*in like manner as the same ought to be observed and performed in case the said ship were a British ship, and the said a British subject], then this obligation to be void, otherwise to remain in full force and effect.

Signed, sealed, and delivered by the above-bounden and in the presence of

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18 & 19 VICTORIÆ, CAP. CXIX, SEC. 99.

AN ACT *to amend the law relating to the carriage of passengers by sea.*
[14*th August* 1855.]

Power to the Governor General of India in Council, by any Act to be passed for that purpose, to adopt this Act for India, and to make rules respecting food, passengers, surgeons, &c.,

XCIX. This Act shall not apply to any of the territories or places under the Government of the *East India* Company: It shall, however, be lawful for the Governor General of *India* in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage from any ports or places within such territories, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts; and also in like manner to authorize the substitution, as respects such voyages, of other articles of food and provisions for those hereinbefore enumerated; and to declare the rule

* This clause to be inserted only in the case of a foreign Chinese passenger ship.

of computation by which the length of any such voyage shall be estimated; and to determine the persons or officers who in such territories shall be entitled to exercise or perform the powers, functions, or duties hereinbefore given to or imposed upon the Emigration Officers and Officers of Customs in the United Kingdom; and to authorize the employment on board any ship of a medical practitioner duly qualified by law to practise as a Physician, Surgeon, or Apothecary within such territories; and to declare for the purposes of this Act the space necessary for passengers, and the age at which two children shall be considered equal to one statute adult, in ships that may clear out from any port or place within such territories; and also to declare in what manner, and before what authorities, and by what form of proceedings, the penalties imposed and the sums of money made recoverable by this Act shall be sued for and recovered within such territories, and to what uses such penalties shall be applied: And on the passing of such *Indian* Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said *Indian* Act or Acts shall be specified. The provisions of such *Indian* Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced: Every such *Indian* Act shall be subject to disallowance and repeal, and shall in the same manner be transmitted to *England*, to be laid before both Houses of Parliament, as in the case of any other law made by the Governor General in Council (*a*).

and to declare in what manner penalties, &c, may be sued for and recovered.

Indian Act may be enforced in the colonies in like manner as this Act.

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19 & 20 VICTORIÆ, CAP. CXIII.

AN ACT *to provide for taking evidence in Her Majesty's dominions in relation to civil and commercial matters pending before foreign tribunals.*

[20*th July* 1856.]

Preamble.

WHEREAS it is expedient that facilities be afforded for taking evidence in Her Majesty's dominions in relation to civil and commercial matters pending before foreign tribunals: Be it enacted, &c.

Order for examination of witnesses in this country in relation to any civil or commercial matter pending before a foreign tribunal.

I. Where, upon an application for this purpose, it is made to appear to any Court or Judge having authority under this Act that any Court or tribunal of competent jurisdiction in a foreign country, before which any civil or commercial matter is pending, is desirous of obtaining the testimony in relation to such matter of any witness or witnesses within the jurisdiction of such first-mentioned Court, or of the Court to which such Judge belongs, or of such Judge, it shall be lawful for such Court or Judge to order the examination upon oath, upon interrogatories or otherwise, before any person or persons named in such order, of such witness or witnesses accordingly; and it shall be lawful for the said Court or Judge, by the same order, or for such Court or Judge or any other Judge having authority under this Act, by any subsequent order, to command the attendance of any person to be named in such order, for the purpose of being examined, or the production of any writings or other documents to be mentioned in such order, and

(*a*). The power given by this section has been partially exercised by Act No. II of 1860 (*to amend the law relating to the carriage of passengers by sea*).—*Ed.*

to give all such directions as to the time, place, and manner of such examination, and all other matters connected therewith, as may appear reasonable and just; and any such order may be enforced in like manner as an order made by such Court or Judge in a cause depending in such Court or before such Judge.

Certificate of ambassador, &c., sufficient evidence in support of application.

II. A certificate under the hand of the ambassador, minister, or other diplomatic agent of any foreign power, received as such by Her Majesty, or in case there be no such diplomatic agent, then of the Consul General or consul of any such foreign power at London, received and admitted as such by Her Majesty, that any matter in relation to which an application is made under this Act is a civil or commercial matter pending before a Court or tribunal in the country of which he is the diplomatic agent or consul having jurisdiction in the matter so pending, and that such Court or tribunal is desirous of obtaining the testimony of the witness or witnesses to whom the application relates, shall be evidence of the matters so certified; but where no such certificate is produced other evidence to that effect shall be admissible.

Examination of witnesses to be taken upon oath.

III. It shall be lawful for every person authorized to take the examination of witnesses by any order made in pursuance of this Act to take all such examinations upon the oath of the witnesses, or affirmation in cases where affirmation is allowed by law instead of oath, to be administered by the person so authorized; and if upon such oath or affirmation any person making the same wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury.

Persons giving false evidence guilty of perjury.

Payment of expenses.

IV. Provided always, that every person whose attendance shall be so required shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial.

Persons to have right of refusal to answer questions and to produce documents.

V. Provided also, that every person examined under any order made under this Act shall have the like right to refuse to answer questions tending to criminate himself, and other questions, which a witness in any cause pending in the Court by which or by a Judge whereof or before the Judge by whom the order for examination was made would be entitled to; and that no person shall be compelled to produce under any such order as aforesaid any writing or other document that he would not be compellable to produce at a trial of such a cause.

Certain Courts and Judges to have authority under this Act.

VI. Her Majesty's Superior Courts of Common Law at *Westminster* and in *Dublin* respectively, the Court of Session in *Scotland*, and any Supreme Court in any of Her Majesty's colonies or possessions abroad, and any Judge of any such Court, and every Judge in any such colony or possession who by any order of Her Majesty in Council may be appointed for this purpose, shall respectively be Courts and Judges having authority under this Act: Provided, that the Lord Chancellor, with the assistance of two of the Judges of the Courts of Common Law at *Westminster*, shall frame such rules and orders as shall be necessary or proper for giving effect to the provisions of this Act, and regulating the procedure under the same.

Lord Chancellor, &c., to frame rules, &c.

20 & 21 VICTORIÆ, CAP. XXXIX.

An Act to regulate the admission of Attornies and Solicitors of Colonial Courts in Her Majesty's Superior Courts of Law and Equity in England, in certain cases.
[17*th August* 1857.]

Preamble.

Whereas in certain of Her Majesty's colonies and dependencies, including certain parts of the territories under the government of the *East India* Company, the system of jurisprudence is founded on or assimilated to that administered in *England*, and the attornies and solicitors of the Superior Courts of Law and Equity in *England* are admitted as attornies and solicitors in the Courts of Law and Equity of such colonies and dependencies, on production of their certificates of admission in the *English* Courts aforesaid; and it is considered just and expedient to afford facilities to the attornies and solicitors of the Superior Courts in certain colonies and dependencies for obtaining admission in Her Majesty's Courts of Law and Equity in *England:* Be it therefore enacted, &c.

Short title.

I. This Act may for all purposes be cited as "The Colonial Attornies' Relief Act."

When Act to come into operation.

II. This Act shall not take effect in any one or more of Her Majesty's colonies or dependencies until Her Majesty has, by order in council, to be made as hereinafter mentioned, directed the same to come into operation in respect to such colony or dependency.

Attornies and solicitors of colonial Courts to be admitted to Courts of Law and Equity in England.

III. All persons who, being subjects of the *British* Crown, have been or shall hereafter be duly admitted and enrolled as attornies and solicitors in the Superior Courts of Law and Equity in those of Her Majesty's colonies or dependencies where the system of jurisprudence is founded on or assimilated to the common law and principles of equity as administered in *England*, and where full service under articles of clerkship to an attorney-at-law for the space of five years at the least, and an examination to test the qualification of candidates, are or may be required previous to such admission, save only in the case of persons previously admitted as attornies or solicitors in the Superior Courts of Law or Equity in *England*, such colonies or dependencies to be from time to time specified in and by order in council, as hereinafter provided, shall and may be admitted and enrolled attornies in all or any of the Courts of Queen's Bench, Common Pleas, and Exchequer, and other Courts in *England*, and solicitors in the High Court of Chancery in *England*, subject as hereinafter provided.

No person to be deemed qualified unless he shall pass an examination, and produce a certificate from the Judge of the Court where he was admitted.

IV. No person shall be deemed qualified to be admitted as attorney or solicitor, under the provisions of this Act, unless he shall pass such examination to test his fitness and capacity as hereinafter provided, and shall produce at such examination a certificate from the presiding Judge of the Superior Court of Common Law in the colony or dependency where such person shall have been duly admitted an attorney and solicitor, and stating the amount of the stamps which have been paid by such person on his articles of clerkship and admission to practise in such colony, in the form or to the effect as contained in Schedule (A) hereunto annexed, and shall further make affidavit (in such

manner as shall be provided by order or regulation to be made by the Judges of the Superior Courts of Common Law, and the Master of the Rolls respectively, as hereinafter provided), that he is resident within the jurisdiction of the said Superior Courts of Law and Equity in *England*, and that he has ceased, for the space of twelve calendar months at the least, to practise as attorney or solicitor in any colonial Court of law.

Judges of Courts of Common Law to appoint examiners.

V. It shall be lawful for the Judges of the Courts of Queen's Bench and Common Pleas and Exchequer, or any three or more of them, as and when any person shall, under the provisions of this Act, seek to be admitted as an attorney, and not as a solicitor also, and for the Master of the Rolls, as and when any person shall seek as aforesaid to be admitted as a solicitor, and not as an attorney also, and for the said Judges or any three or more of them, and the Master of the Rolls, jointly, when any person shall seek as aforesaid to be admitted as an attorney and solicitor, and he and they are hereby authorized and required, at any time before he and they shall admit or issue a fiat for the admission of any such person as aforesaid, to examine and inquire by such ways and means as he or they shall think proper touching the qualification and the fitness or capacity of such person to act as an attorney or solicitor, or as an attorney and solicitor, and for that purpose it shall be lawful for him or them, from time to time as application for admission as aforesaid shall be made, to appoint such persons as examiners, and to make such orders and regulations for conducting such examination, as he or they shall think proper; and if by any such examination any of the Judges of the said Courts of Common Law shall be satisfied that such person is duly qualified and fit and competent to be admitted to act as an attorney, then, and not otherwise, any one of the said Judges shall and he is hereby authorized and required to administer or cause to be administered to such person the oaths by law required to be administered to attornies in *England*, and after such oaths taken to cause him to be admitted an attorney of such Courts, which admission shall be written on parchment, and signed by such Judge, and shall be stamped with the stamps after-mentioned; and if by such examination the Master of the Rolls shall be satisfied that such person is duly qualified and fit and competent to be admitted to act as a solicitor, then, and not otherwise, he is hereby authorized and required to administer or cause to be administered to such person the oaths by law required to be taken, and to cause him to be admitted a solicitor in the Court of Chancery, and his name to be enrolled as a solicitor of such Court, which admission shall be written on parchment, and signed by the Master of the Rolls, and shall be stamped with the stamps after-mentioned.

Stamp duties on admissions.

VI. The admission of any person as an attorney or solicitor under the provisions of this Act shall be stamped with the stamps by law required to be impressed on the admission of attornies or solicitors in *England* (as the case may be), and the admission first obtained shall be impressed with such further stamp as shall, together with the amount of stamps paid on articles of clerkship and admission in the colony (to be ascertained as hereinafter provided), be equal in amount to the sum by law payable on articles of clerkship in *England*.

VII. Her Majesty may from time to time, by order in council, direct this Act to come into operation as to any one or more of Her Majesty's colonies or dependencies, and thereupon, but not otherwise, the provisions of this Act shall apply to persons duly admitted as attornies and solicitors in the Superior Courts of Law and Equity in such colonies or dependencies; but no such order in council shall be made in respect of any colony, except upon application made by the Governor or person exercising the functions of Governor of such colony or dependency, and until it shall be shown to the satisfaction of Her Majesty's Principal Secretary of State for the colonies that the system of jurisprudence as administered in such colony or dependency, and the qualification for admission as an attorney or solicitor in the Superior Courts of Law and Equity in such colony or dependency, answer to and fulfil the conditions specified in Section III hereinbefore contained, and also that the attornies or solicitors of the Superior Courts of Law or Equity in *England* are admitted as attornies and solicitors in the Superior Courts of Law and Equity of such colony or dependency, on production of their certificates of admission in the *English* Courts, without service or examination in the colony or dependency.

Power to Her Majesty, by order in council, to direct this Act to come into operation in any one or more colony or dependency

SCHEDULE (A).

To all whom it may concern, I [*name and style of Judge*] do hereby certify, that [*terms of certificate of admission granted to the attorney in the colony*], and that the said [*attorney's name*] is now duly enrolled as an attorney-at-law and solicitor in this colony, and entitled to practise as such; and further, that no charge or accusation has been established or is pending against the said [ ] in such his professional character or otherwise affecting his fair fame and repute. And I find that the sum of £ was paid on articles of clerkship when the said was articled, and the sum of £ on the certificate of admission when he was admitted to practise as aforesaid. [*To be signed and attested in the manner usual in other certificates granted by the Judge.*]

20 & 21 VICTORIÆ, CAP. LXVI.

An Act *for punishing mutiny and desertion of Officers and Soldiers in the service of the East India Company, and for regulating in such service the payment of regimental debts and the distribution of the effects of Officers and Soldiers dying in the service.*

[25*th August* 1857.]

[Repealed by 26 & 27 Vic., cap. 48, sec. 1.]

20 & 21 VICTORIÆ, CAP. LXXV.

An Act *to confirm an Order in Council concerning the exercise of jurisdiction in matters arising within the Kingdom of Siam.*

[25*th August* 1857.]

Whereas by an Act passed in the Session holden in the sixth and seventh years of Her Majesty, Chapter ninety-four, "to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions,

Preamble.

6 & 7 Vic., c. 94.

and to render the same more effectual," it was enacted that it should be lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty then had or might at any time thereafter have within any country or place out of Her Majesty's dominions, in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory: And whereas, to make provision for the due exercise of the jurisdiction possessed by Her Majesty in the dominions of the Kings of *Siam*, Her Majesty, by an order in council, dated the twenty-eighth day of *July* one thousand eight hundred and fifty-six, and expressed to be made in pursuance of the above-recited Act, vested certain powers and authorities in Her Majesty's Consul appointed to reside in the kingdom of *Siam* for the peace, order, and good government of Her Majesty's subjects being within the dominions of the Kings of *Siam*, and particularly authority to hear and determine any suits of a civil nature arising in those dominions between a *British* subject and a subject of the Kings of *Siam* or a subject or citizen of a foreign State in amity with Her Majesty, or between *British* subjects, subject to an appeal, expressed to be given by the said order, to the Supreme Court in Her Majesty's possession of *Singapore*, and also authority to try *British* subjects charged with having committed crimes or offences within the dominions of the Kings of *Siam*, and power also to cause any *British* subject charged with the commission of any crime or offence, the cognizance whereof might appertain to such Consul, to be sent to Her Majesty's possession of *Singapore* for trial before the Supreme Court of the said possession; and in the said order in council are contained provisions in relation to the trial by the said Supreme Court of the *British* subjects so sent for trial, and also for the exercise by the said Supreme Court, concurrently with Her Majesty's Consul in *Siam*, of authority and jurisdiction in regard to all suits of a civil nature between *British* subjects arising within the dominions of the Kings of *Siam*: And whereas doubts have arisen whether all the jurisdiction intended to be vested by the said order in council in the Supreme Court of *Singapore* can be effectually vested in the said Court without the authority of Parliament, and it is expedient that the said order should be confirmed as hereinafter mentioned: Be it enacted &c.

Order in council, dated 28th July 1856.

Order in council confirmed

1. The said order in council is hereby confirmed, and shall have the same force and effect as if every article and provision therein had been enacted by the authority of Parliament: Provided always, that it shall and may be lawful for Her Majesty, by order in council, at any time hereafter to amend, alter, or vary the said order in council, and from time to time by any fresh order or orders in council to make such other rules and regulations touching the administration of justice by the said Supreme Court at *Singapore*, under the said recited order, as to Her Majesty in Council shall seem right.

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21 VICTORIÆ, CAP. III.

AN ACT *for enabling the East India Company to raise money in the United Kingdom for the service of the Government of India.*

[22*nd March* 1858.]

(1) [Power to East India Company to raise any sum not exceeding eight millions.

(2) [Money may be raised on bonds of the Company.]

(3) [When money not borrowed on bond debentures may be issued by the Company.]

(4) [As to payment of principal and interest on debentures.]

(5) [Debentures transferable by delivery.]

(6) [The whole amount secured by bonds, &c not to exceed eight millions.]

(7) [Power to raise money for re-payment of principal monies.]

(8) [Securities to be charged on revenues of India.]

(9) [Provision as to composition for stamp duties on India bonds extended to bonds and debentures under this Act.]

(10) [Forgery of debentures to be punishable as forgery of East Indian bonds.]

(11) [Returns to be annually prepared of monies raised on loan, &c. and presented to Parliament.]

(12) [Existing powers of the Company not prejudiced.]

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21 & 22 VICTORIÆ, CAP. XXXII.

An Act *to make valid certain acts of the late Chief Justice of Bombay.*

[12*th July* 1858.]

(1) [Acts of Sir W. Yardley as Chief Justice up to 9th April 1858 confirmed.]

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21 & 22 VICTORIÆ, CAP. LV.

An Act *to revive and continue an act amending the Act for limiting the time of service in the Army.*

[23*rd July* 1858.]

Whereas by an Act of the Session holden in the eighteenth and nineteenth years of Her Majesty, Chapter four, "to amend the Act for limiting the time of service in the Army," it was enacted that for three years after the passing of the Act now in recital any person might be enlisted to serve Her Majesty or in the forces of the *East India* Company as a soldier for any such term not exceeding ten years in the Infantry or twelve years in the Cavalry or Artillery or other Ordnance Corps as might be authorized by any order or orders of Her Majesty in Council in that behalf. And whereas it is expedient to revive and continue the said Act: Be it enacted &c. Preamble. 18 & 19 Vic., c. 4.

I. The said Act of the eighteenth and nineteenth years of Her Majesty shall continue in force as if six years after the passing of the said Act had been mentioned therein instead of three years, and shall be deemed and taken to have had effect accordingly, to all intents and purposes, as if this Act had actually passed before the expiration of the said term of three years. Act revived and continued.

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21 & 22 VICTORIÆ, CAP. CVI.

An Act *for the better Government of India.*

[*2nd August* 1858].

Preamble. 16 & 17 Vic., c. 95.

Whereas by an Act of the Session holden in the sixteenth and seventeenth years of Her Majesty, Chapter ninety-five, "to provide for the Government of *India*," the territories in the possession and under the government of the *East India* Company were continued under such government, in trust for Her Majesty, until Parliament should otherwise provide, subject to the provisions of that Act and of other Acts of Parliament, and the property and rights in the said Act referred to are held by the said Company in trust for Her Majesty for the purposes of the said government: And whereas it is expedient that the said territories should be governed by and in the name of Her Majesty: Be it therefore enacted &c.

Transfer of the Government of India to Her Majesty.

Territories under the government of the East India Company to be vested in Her Majesty, and powers to be exercised in Her name.

I. The government of the territories now in the possession or under the government of the *East India* Company, and all powers in relation to government vested in or exercised by the said Company in trust for Her Majesty, shall cease to be vested in or exercised by the said Company, and all territories in the possession or under the government of the said Company, and all rights vested in or which if this Act had not been passed might have been exercised by the said Company in relation to any territories, shall become vested in Her Majesty, and be exercised in Her name; and for the purposes of this Act *India* shall mean the territories vested in Her Majesty as aforesaid, and all territories which may become vested in Her Majesty by virtue of any such rights as aforesaid.

India to be governed by and in the name of Her Majesty.

II. *India* shall be governed by and in the name of Her Majesty, and all rights in relation to any territories which might have been exercised by the said Company if this Act had not been passed shall and may be exercised by and in the name of Her Majesty as rights incidental to the Government of *India*; and all the territorial and other revenues of or arising in *India*, and all tributes and other payments in respect of any territories which would have been receivable by or in the name of the said Company if this Act had not been passed, shall be received for and in the name of Her Majesty, and shall be applied and disposed of for the purposes of the Government of *India* alone, subject to the provisions of this Act.

Secretary of State to exercise powers now exercised by the Company or Board of Control.

III. Save as herein otherwise provided, one of Her Majesty's Principal Secretaries of State shall have and perform all such or the like powers and duties in anywise relating to the government or revenues of *India*, and all such or the like powers over all officers appointed or continued under this Act, as might or should have been exercised or performed by the *East India* Company, or by the Court of Directors or Court of Proprietors of the said Company, either alone or by the direction or with the sanction or approbation of the Commissioners for the affairs of *India* in relation to such government or revenues, and the officers and servants of the said Company respectively, and also all such powers as might

have been exercised by the said Commissioners alone; and any warrant or writing under Her Majesty's Royal sign manual, which by the Act of the Session holden in the seventeenth and eighteenth years of Her Majesty, Chapter seventy-seven, or otherwise, is required to be countersigned by the President of the Commissioners for the affairs of *India*, shall in lieu of being so countersigned be countersigned by one of Her Majesty's Principal Secretaries of State.

As to warrants, &c., required to be countersigned by 17 & 18 Vic., c. 77.

IV. After the commencement of this Act any four of Her Majesty's Principal Secretaries of State for the time being, and any four of the Under Secretaries for the time being to Her Majesty's Principal Secretaries of State, may sit and vote as members of the House of Commons, but not more than four such Principal Secretaries and not more than four such Under Secretaries shall sit as members of the House of Commons at the same time.

Four Principal and four Under Secretaries of State may sit as members in the House of Commons.

V. In case the person who immediately before the commencement of this Act is the President of the Commissioners for the affairs of *India* be appointed, upon or within one month after the commencement of this Act, one of Her Majesty's Principal Secretaries of State, and be at the time of such appointment a member of the House of Commons, he shall not by reason of such appointment vacate his seat in Parliament.

If President of Board of Control is appointed Secretary of State, his seat in the House of Commons not to be vacated.

VI. In case Her Majesty be pleased to appoint a fifth Principal Secretary of State, there shall be paid out of the revenues of *India* to such Principal Secretary of State and to his Under Secretaries respectively the like yearly salaries as may for the time being be paid to any other of such Secretaries of State and his Under Secretaries respectively.

Salaries of one Secretary of State and his Under Secretaries to be paid out of the revenue of India.

Council of India.

VII. For the purposes of this Act a Council shall be established, to consist of fifteen members, and to be styled the Council of *India*; and henceforth the Council in *India*, now bearing that name, shall be styled the Council of the Governor General of *India*.

Council of India established

VIII. Within fourteen days after the passing of this Act the Court of Directors of the *East India* Company shall, from among the persons then being Directors of the said Company or having been theretofore such Directors, elect seven persons to be with the persons to be appointed by Her Majesty as hereinafter mentioned the first members of the Council under this Act, and the names of the persons so elected by the Court of Directors shall be forthwith, after such election, certified to the Board of Commissioners for the affairs of *India*, under the seal of the said Company, and it shall be lawful for Her Majesty, by warrant under Her Royal sign manual, within thirty days after the passing of this Act, to appoint to be members of such Council eight persons: Provided always, that if the Court of Directors of the *East India* Company shall refuse or shall for such fourteen days neglect to make such election of such seven persons, and to certify the names of such persons as aforesaid, it shall be lawful for Her Majesty, by warrant under Her Royal sign manual, within thirty days after the expiration of such fourteen days, to appoint from among the said Directors seven persons to make up the full number of the said Council. Provided also, that if any person being or having been such Director, and elected or appoint-

First members of the Council.

ed as aforesaid, shall refuse to accept the office, it shall be lawful for Her Majesty, by warrant under Her Royal sign manual, to appoint in the place of every person so refusing some other person to be a member of the Council, but so that nine members of the Council at the least shall be persons qualified as hereinafter mentioned.

Vacancies in the Council how to be filled up.

IX. Every vacancy happening from time to time among the members of the Council appointed by Her Majesty, not being members so appointed by reason of the refusal or neglect of the Court of Directors or the refusal to accept office hereinbefore mentioned, shall be filled up by Her Majesty, by warrant under Her Royal sign manual, and every other vacancy shall be filled up by the Council by election made at a meeting to be held for that purpose.

The major part of the Council, with certain exceptions, to be persons who shall have served or resided ten years in India.

X. The major part of the persons to be elected by the Court of Directors, and the major part of the persons to be first appointed by Her Majesty after the passing of this Act to be members of the Council, shall be persons who shall have served or resided in *India* for ten years at the least, and (excepting in the case of late and present Directors and officers on the Home establishment of the *East India* Company who shall have so served or resided) shall not have last left *India* more than ten years next preceding the date of their appointment; and no person other than a person so qualified shall be appointed or elected to fill any vacancy in the Council unless at the time of the appointment or election nine at the least of the continuing members of the Council be persons qualified as aforesaid.

Tenure of office of members of the Council.

XI. Every member of the Council appointed or elected under this Act shall hold his office during good behaviour; provided that it shall be lawful for Her Majesty to remove any such member from his office upon an address of both Houses of Parliament.

Members of Council not to sit in Parliament.

XII. No member of the Council appointed or elected under this Act shall be capable of sitting or voting in Parliament.

Salaries of members of Council.

XIII. There shall be paid to each member of the Council the yearly salary of one thousand two hundred pounds, out of the revenues of *India*.

As to retiring pensions, &c.

XIV. Any member of the Council may, by writing under his hand, which shall be recorded in the minutes of the Council, resign his office, and it shall be lawful for Her Majesty, by warrant under Her Royal sign manual, countersigned by the Chancellor of the Exchequer, to grant to any person who, having held the office of member of the Council for the period of ten years or upwards, shall so resign by reason of infirmity disabling him from a due execution of the duties of the office, a retiring pension during life of five hundred pounds: Provided, that if at any time hereafter it should appear to Parliament expedient to reduce the number or otherwise deal with the constitution of the said Council, no member of Council who has not served in his office for a period of ten years shall be entitled to claim any compensation for the loss of his office, or for any alteration in the terms and conditions under which the same is held.

Secretaries and officers on the Home establishment of Company to form the establishment of the Secretary of State in Council.

XV. The Secretaries and other officers and servants on the Home establishment of the said Company, and on the establishment of the Commissioners for the affairs of *India*, immediately before the commencement of this Act, shall on such commencement be and form the establishment of the Secretary of State in Council; and the Secretary of State shall with all convenient speed make such arrangement of the said establishments, and such reductions therein, as may seem to him consistent with the due conduct of the public business, and shall within six months after the commencement of this Act submit a scheme for the permanent establishment to Her Majesty in Council; and it shall be lawful for Her Majesty, by the advice of Her Privy Council, upon consideration of such scheme, to fix and declare what shall constitute and be the establishment of the Secretary of State in Council, and what salaries shall be paid to the persons on the establishment, and the order of Her Majesty in Council shall be laid before both Houses of Parliament within fourteen days after the making thereof, provided Parliament be then sitting, or otherwise within fourteen days after the next meeting thereof; and after such establishment has been formed by such order in council no addition of persons shall be made to such establishment, nor any addition made to the salaries authorized by such order, except by a similar order in council, to be laid in like manner before both Houses of Parliament.

Secretary of State to submit a scheme for a permanent establishment.

As to removal of officers and supply of vacancies after first formation of establishment.

XVI. After the first formation of the establishment, it shall be lawful for the Secretary of State in Council to remove any officer or servant belonging thereto, and also to make all appointments and promotions to and in such establishment; provided that the order of Her Majesty in Council of the twenty-first day of *May* one thousand eight hundred and fifty-five, or such other regulations as may be from time to time established by Her Majesty for examinations, certificates, probation, or other tests of fitness, in relation to appointments to junior situations in the civil service, shall apply to such appointments on the said establishment.

Compensations to officers on Home establishment of the Company and of Board of Control not retained on new establishment.

XVII. It shall be lawful for Her Majesty, by warrant under Her Royal sign manual, countersigned by the Chancellor of the Exchequer, to grant to any secretary, officer, or servant on the Home establishment of the said Company, or on the establishment of the said Commissioners, who in consequence of such reduction as aforesaid by the Secretary of State or under such order in council is not retained on the establishment of the Secretary of State in Council, any compensation, either by way of a gross or annual payment, as, having regard to the circumstances, may seem just.

As to superannuation to officers.

XVIII. It shall be lawful for Her Majesty, by warrant countersigned as aforesaid, to grant to any such secretary, officer, or servant as aforesaid, retained on such last-mentioned establishment, such compensation, superannuation, or retiring allowance on his ceasing to hold office as might have been granted to him if this Act had not been passed, and the transfer of any person to the service of the Secretary of State in Council shall be deemed to be a continuance of his previous appointment or employment, and shall not prejudice any claims which he might have had in respect of length of service if his service under the said Company or Commissioners had continued; and it shall be lawful for Her Majesty, by warrant countersigned as aforesaid, to grant to

any secretary, officer, or servant appointed on the said establishment after the first formation thereof such compensation, superannuation, or retiring allowance as, under the Act of the Session holden in the fourth and fifth years of King *William* the Fourth, Chapter twenty-four, or any other Act for the time being in force concerning superannuations and other allowances to persons having held civil offices in the public service, may be granted to persons appointed on the establishment of one of Her Majesty's Principal Secretaries of State.

Duties and Procedure of the Council.

Duties of the Council

XIX. The Council shall, under the direction of the Secretary of State, and subject to the provisions of this Act, conduct the business transacted in the United Kingdom in relation to the Government of *India* and the correspondence with *India*, but every order or communication sent to *India* shall be signed by one of the Principal Secretaries of State; and, save as expressly provided by this Act, every order in the United Kingdom in relation to the Government of *India* under this Act shall be signed by such Secretary of State; and all despatches from Governments and Presidencies in *India*, and other despatches from *India*, which if this Act had not been passed should have been addressed to the Court of Directors or to their Secret Committee, shall be addressed to such Secretary of State.

Secretary of State to divide the Council into committees, and to regulate the transaction of business.

XX. It shall be lawful for the Secretary of State to divide the Council into committees for the more convenient transaction of business, and from time to time to re-arrange such committees, and to direct what departments of the business in relation to the Government of *India* under this Act shall be under such committees respectively, and generally to direct the manner in which all such business shall be transacted.

President and Vice-President

XXI. The Secretary of State shall be the President of the Council, with power to vote, and it shall be lawful for such Secretary of State in Council to appoint from time to time any member of such Council to be Vice-President thereof, and any such Vice-President may at any time be removed by the Secretary of State.

Meetings of the Council.

XXII. All powers by this Act required to be exercised by the Secretary of State in Council, and all powers of the Council, shall and may be exercised at meetings of such Council, at which not less than five members shall be present, and at every meeting the Secretary of State, or in his absence the Vice-President, if present, shall preside, and in the absence of the Secretary of State and Vice-President, one of the members of the Council present shall be chosen by the members present to preside at the meeting; and such Council may act notwithstanding any vacancy therein: Meetings of the Council shall be convened and held when and as the Secretary of State shall from time to time direct; provided that one such meeting at least be held in every week.

Procedure at meetings

XXIII. At any meeting of the Council at which the Secretary of State is present, if there be a difference of opinion on any question other than the question of the election of a member of Council, or other than any question with regard to which a majority of the votes at a meeting is hereinafter declared to be necessary, the

determination of the Secretary of State shall be final; and in case of an equality of votes at any meeting of the Council, the Secretary of State, if present, and in his absence the Vice-President, or presiding member, shall have a casting vote; and all acts done at any meeting of the Council in the absence of the Secretary of State, except the election of a member of the Council, shall require the sanction or approval in writing of the Secretary of State; and in case of difference of opinion on any question decided at any meeting, the Secretary of State may require that his opinion, and the reasons for the same, be entered in the minutes of the proceedings, and any member of the Council who may have been present at the meeting may require that his opinion, and any reasons for the same that he may have stated at the meeting, be entered in like manner.

Orders, &c. to be open to the perusal of members of Council, who may record their opinions.

XXIV. Every order or communication proposed to be sent to *India*, and every order proposed to be made in the United Kingdom by the Secretary of State, under this Act, shall, unless the same has been submitted to a meeting of the Council, be placed in the Council room for the perusal of all members of the Council during seven days before the sending or making thereof, except in the cases hereinafter provided; and it shall be lawful for any member of the Council to record in a minute book, to be kept for that purpose, his opinion with respect to each such order or communication, and a copy of every opinion so recorded shall be sent forthwith to the Secretary of State.

Secretary of State acting against opinions of the majority to record his reasons.

XXV. If a majority of the Council record as aforesaid their opinions against any act proposed to be done, the Secretary of State shall, if he do not defer to the opinions of the majority, record his reasons for acting in opposition thereto.

Provision for cases of urgency.

XXVI. Provided, that where it appears to the Secretary of State that the despatch of any communication, or the making of any order, not being an order for which a majority of the votes at a meeting is hereby made necessary, is urgently required, the communication may be sent or order given notwithstanding the same may not have been submitted to a meeting of the Council or deposited for seven days as aforesaid, the urgent reasons for sending or making the same being recorded by the Secretary of State, and notice thereof being given to every member of the Council, except in the cases hereinafter mentioned.

Orders now sent through Secret Committee may be sent by Secretary of State without communication with the Council.

XXVII. Provided also, that any order, not being an order for which a majority of votes at a meeting is hereby made necessary, which might, if this Act had not been passed, have been sent by the Commissioners for the affairs of *India* through the Secret Committee of the Court of Directors to Governments or Presidencies in *India*, or to the officers or servants of the said Company, may, after the commencement of this Act, be sent to such Governments or Presidencies, or to any officer or servant in *India*, by the Secretary of State, without having been submitted to a meeting or deposited for the perusal of the members of the Council, and without the reasons being recorded or notice thereof given as aforesaid.

As to communication of secret despatches from India.

XXVIII. Any despatches to *Great Britain* which might if this Act had not been passed have been addressed to the Secret Committee of the Court of Directors, may be marked

"Secret" by the authorities sending the same, and such despatches shall not be communicated to the members of the Council, unless the Secretary of State shall so think fit and direct.

Appointments and Patronage.

Appointments to be made by or with the approbation of Her Majesty.

XXIX. The appointments of Governor General of *India*, fourth ordinary member of the Council of the Governor General of *India*, and Governors of Presidencies in *India*, now made by the Court of Directors with the approbation of Her Majesty, and the appointments of Advocate General for the several Presidencies now made with the approbation of the Commissioners for the affairs of *India*, shall be made by Her Majesty by warrant under Her royal sign manual; the appointments of the ordinary members of the Council of the Governor General of *India*, except the fourth ordinary member, and the appointments of the members of Council of the several Presidencies, shall be made by the Secretary of State in Council; the appointments of the Lieutenant Governors of provinces or territories shall be made by the Governor General of *India*, subject to the approbation of Her Majesty; and all such appointments shall be subject to the qualifications now by law affecting such offices respectively.

Appointments now made in India to continue to be made there.

XXX. All appointments to offices, commands, and employments in *India*, and all promotions, which by law, or under any regulations, usage, or custom, are now made by any authority in *India*, shall continue to be made in *India* by the like authority, and subject to the qualifications, conditions, and restrictions now affecting such appointments respectively; but the Secretary of State in Council shall have the like power to make regulations for the division and distribution of patronage and power of nomination among the several authorities in *India*, and the like power of restoring to their stations, offices, or employments, officers and servants suspended or removed by any authority in *India* as might have been exercised by the said Court of Directors, with the approbation of the Commissioners for the affairs of *India*, if this Act had not been passed.

Certain Sections of 16 & 17 Vic., c. 95, as to appointment, &c. to the Civil service repealed.

XXXI. Sections thirty-seven, thirty-eight, thirty-nine, forty, forty-one, and forty-two of the Act of the sixteenth and seventeenth *Victoria*, Chapter ninety-five, are hereby repealed, so far as the same apply to or provide for the admission or appointment of persons to the Civil service of the *East India* Company.

Secretary of State in Council to make regulations for the admission of candidates to the Civil service of India.

XXXII. With all convenient speed after the passing of this Act, regulations shall be made by the Secretary of State in Council, with the advice and assistance of the Commissioners for the time being acting in execution of Her Majesty's order in council of twenty-first *May* one thousand eight hundred and fifty-five, "for regulating the admission of persons to the Civil service of the Crown," for admitting all persons being natural-born subjects of Her Majesty (and of such age and qualification as may be prescribed in this behalf) who may be desirous of becoming candidates for appointment to the Civil service of *India* to be examined as candidates accordingly, and for prescribing the branches of knowledge in which such candidates shall be examined, and generally for regulating and conducting such examinations under the superintendence of the said last-mentioned Commissioners, or of the persons for the time being entrusted with the carrying out of such

regulations as may be from time to time established by Her Majesty for examination, certificate, or other test of fitness in relation to appointments to junior situations in the Civil service of the Crown, and the candidates who may be certified by the said Commissioners or other persons as aforesaid to be entitled under such regulations shall be recommended for appointment according to the order of their proficiency as shown by such examinations, and such persons only as shall have been so certified as aforesaid shall be appointed or admitted to the Civil service of *India* by the Secretary of State in Council: Provided always, that all regulations to be made by the said Secretary of State in Council under this Act shall be laid before Parliament within fourteen days after the making thereof, if Parliament be sitting, and, if Parliament be not sitting, then within fourteen days after the next meeting thereof.

Regulations made by Secretary of State to be laid before Parliament.

XXXIII. All appointments to cadetships, naval and military, and all admissions to service not herein otherwise expressly provided for, shall be vested in Her Majesty; and the names of persons to be from time to time recommended for such cadetships and service shall be submitted to Her Majesty by the Secretary of State.

Other appointments and admissions to service vested in Her Majesty.

XXXIV. With all convenient speed after the commencement of this Act, regulations shall be made for admitting any persons being natural-born subjects of Her Majesty (and of such age and qualifications as may be prescribed in this behalf) who may be desirous of becoming candidates for cadetships in the Engineers and in the Artillery, to be examined as candidates accordingly, and for prescribing the branches of knowledge in which such candidates shall be examined, and generally for regulating and conducting such examinations

Regulations to be made for admitting persons to be examined for cadetships in Engineers and Artillery

XXXV. Not less than one-tenth of the whole number of persons to be recommended in any year for military cadetships (other than cadetships in the Engineers and Artillery) shall be selected according to such regulations as the Secretary of State in Council may from time to time make in this behalf from among the sons of persons who have served in *India* in the military or civil services of Her Majesty, or of the *East India* Company.

Not less than one-tenth of persons recommended for military cadetships to be selected from sons of persons who have served in India

XXXVI. Except as aforesaid, all persons to be recommended for military cadetships shall be nominated by the Secretary of State and members of Council, so that out of seventeen nominations the Secretary of State shall have two and each member of Council shall have one; but no person so nominated shall be recommended unless the nomination be approved of by the Secretary of State in Council.

Nominations for cadetships to be made by Secretary of State and members of Council.

XXXVII. Save as hereinbefore provided, all powers of making regulations in relation to appointments and admissions to service and other matters connected therewith, and of altering or revoking such regulations, which if this Act had not been passed might have been exercised by the Court of Directors or Commissioners for the affairs of *India*, may be exercised by the Secretary of State in Council, and all regulations in force at the time of the commencement of this Act in relation to the matters aforesaid shall remain in force, subject nevertheless to alteration or revocation by the Secretary of State in Council as aforesaid.

Regulations as to appointments and admissions to service.

As to removal of officers by Her Majesty.

XXXVIII. Any writing under the royal sign manual, removing or dismissing any person holding any office, employment, or commission, civil or military, in *India*, of which, if this Act had not been passed, a copy would have been required to be transmitted or delivered within eight days after being signed by Her Majesty to the chairman or deputy chairman of the Court of Directors, shall, in lieu thereof, be communicated within the time aforesaid to the Secretary of State in Council.

Transfer of property.

Real and personal property of the Company to vest in Her Majesty for the purposes of the Government of India.

XXXIX. All lands and hereditaments, monies, stores, goods, chattels, and other real and personal estate of the said Company, subject to the debts and liabilities affecting the same respectively, and the benefit of all contracts, covenants, and engagements, and all rights to fines, penalties, and forfeitures, and all other emoluments which the said Company shall be seized or possessed of, or entitled to at the time of the commencement of this Act, except the capital stock of the said Company and the dividend thereon, shall become vested in Her Majesty, to be applied and disposed of, subject to the provisions of this Act, for the purposes of the Government of *India*.

Powers of sale and purchase, and to enter into contracts, vested in Secretary of State in Council

XL. The Secretary of State in Council, with the concurrence of a majority of votes at a meeting, shall have full power to sell and dispose of all real and personal estate whatsoever for the time being vested in Her Majesty under this Act, as may be thought fit, or to raise money on any such real estate by way of mortgage, and make the proper assurances for that purpose, and to purchase and acquire any land or hereditaments, or any interests therein, stores, goods, chattels, and other property; and to enter into any contracts whatsoever, as may be thought fit, for the purposes of this Act; and all property so acquired shall vest in Her Majesty for the service of the Government of *India*; and any conveyance or assurance of or concerning any real estate to be made by the authority of the Secretary of State in Council may be made under the hands and seals of three members of the Council.

Revenues.

Expenditure of revenues of India subject to control of Secretary of State in Council.

XLI. The expenditure of the revenues of *India*, both in *India* and elsewhere, shall be subject to the control of the Secretary of State in Council, and no grant or appropriation of any part of such revenues, or of any other property coming into the possession of the Secretary of State in Council by virtue of this Act, shall be made without the concurrence of a majority of votes at a meeting of the Council.

Dividend on the stock of the Company, and existing and future debts, liabilities, and expenses, to be charged on revenues of India.

XLII. The dividend on the capital stock of the said Company secured by the Act of the third and fourth years of King *William* the Fourth, Chapter eighty-five, until the redemption thereof, and all the bond, debenture, and other debt of the said Company in *Great Britain*, and all the territorial debt and all other debts of the said Company, and all sums of money, costs, charges, and expenses, which if this Act had not been passed would after the time appointed for the commencement thereof have been payable by the said Company out of the revenues of *India*, in respect or by reason of any treaties, covenants, contracts, grants, or liabilities then existing, and all

expenses, debts, and liabilities which after the commencement of this Act shall be lawfully contracted and incurred on account of the Government of *India*, and all payments under this Act, shall be charged and chargeable upon the revenues of *India* alone, as the same would have been if this Act had not been passed, and such expenses, debts, liabilities, and payments as last aforesaid had been expenses, debts, and liabilities lawfully contracted and incurred by the said Company, and such revenues shall not be applied to any other purpose whatsoever; and all other monies vested in or arising or accruing from property or rights vested in Her Majesty under this Act, or to be received or disposed of by the Council under this Act, shall be applied in aid of such revenues: Provided always, that nothing herein contained shall lessen or prejudicially affect any security to which the said Company, or any proprietor or creditor thereof, now is or may be entitled upon the fund called "The Security Fund of the *India* Company," and mentioned in the Act of the third and fourth years of His late Majesty King *William* the Fourth, Chapter eighty-five, Section fourteen.

Revenues remitted to Great Britain, and monies arising in Great Britain, to be paid to Secretary of State in Council.

XLIII. Such part of the revenues of *India* as shall be from time to time remitted to *Great Britain*, and all monies of the said Company in their treasury or under the care of their cashier, and all other monies in *Great Britain* of the said Company, or which would have been received by them in *Great Britain* if this Act had not been passed, and all monies arising or accruing in *Great Britain* from any property or rights vested in Her Majesty by this Act, or from the sale or disposition thereof, shall be paid to the Secretary of State in Council, to be applied for the purposes of this Act; and all such monies, except as hereinafter otherwise provided, shall be paid into the Bank of *England*, to the credit of an account to be opened by the Governor and Company of the Bank of *England*, to be intituled "The account of the Secretary of State in Council of *India*;" and all monies to be placed to the credit of such account under this Act shall be paid out upon drafts or orders signed by three members of the Council, and countersigned by the Secretary of State or one of his Under Secretaries, and such account shall be a public account: Provided always, that the Secretary of State in Council may cause to be kept, from time to time, under the care of their cashier, in an account to be kept at the Bank of *England*, such sum or sums of money as they may deem necessary for the payments now made out of money under the care of the cashier of the said Company.

Cash balance of the Company at the Bank to be transferred to Secretary of State in Council.

XLIV. Such amount of money as at the time of the commencement of this Act may be standing to the credit of the *East India* Company at the Bank of *England* shall be transferred by the Governor and Company of the Bank of *England* to the credit of the account to be opened in the name of the Secretary of State in Council as aforesaid.

Stock account to be opened at the Bank.

XLV. There shall be raised in the books of the Governor and Company of the Bank of *England* such accounts as may be necessary in respect of any stock or stocks of Government annuities, and all such accounts respectively shall be intituled "The stock account of the Secretary of State in Council of *India*," and every such account shall be a public account.

Stock standing in the name of the Company transferred.

XLVI. Such Government stock or stocks as at the time of the commencement of this Act may be standing in the name of the *East India* Company in the books of the said Governor and Company shall be transferred by the chief cashier or the chief accountant of the said Governor and Company to the proper account or accounts to be raised as aforesaid.

Power to grant letter of attorney for sale, &c. of stock and receipt of dividends.

XLVII. The Secretary of State in Council, by letter of attorney, executed by three members of the Council, and countersigned by the Secretary of State or one of his Under Secretaries, may authorize all or any of the cashiers of the Bank of *England* to sell and transfer all or any part of the stock or stocks standing or that may thereafter stand in the books of the said Bank to the several accounts of the Secretary of State in Council, and to purchase and accept stock on the said accounts, and to receive the dividends due and to become due on the several stocks standing or that may thereafter stand on the said accounts, and by any writing signed by three members of the Council, and countersigned as aforesaid, may direct the application of the monies to be received in respect of such sales and dividends, but no stock shall be purchased or sold and transferred by any of the said cashiers under the authority of such general letter of attorney, except upon an order in writing directed to the said chief cashier and chief accountant from time to time, and duly signed and countersigned as aforesaid.

Provision as to exchequer bills, bonds, and other securities.

XLVIII. All exchequer bills, exchequer bonds, or other Government securities, or other securities, of whatsoever kind, not hereinbefore referred to, which shall be held by the Governor and Company of the Bank of *England* in trust for or on account of the *East India* Company at the time of the commencement of this Act, shall thenceforward be held by the said Governor and Company in trust for and on account of the Secretary of State in Council; and all such securities as aforesaid, and all such securities as may thereafter be lodged with the said Governor and Company by or on behalf of the Secretary of State in Council, shall and may be disposed of and the proceeds thereof applied as may be authorized by order in writing signed by three members of the Council, and countersigned by the Secretary of State or one of his Under Secretaries, and directed to the said chief cashier and chief accountant.

Powers of borrowing vested in the Company transferred to Secretary of State in Council.

XLIX. All powers of issuing bonds, debentures, and other securities for money in *Great Britain* which, if this Act had not been passed, might have been exercised by the said Company, or the Court of Directors, under the direction and control of the Commissioners for the affairs of *India*, or otherwise, shall and may be exercised by the Secretary of State in Council, with the concurrence of a majority of votes at a meeting; and such securities as might have been issued under the seal of the said Company shall be issued under the hands of three members of the Council, and countersigned by the Secretary of State or one of his Under Secretaries.

Provisions in force relating to forgery to extend to bonds, &c. issued by Secretary of State in Council.

L. All provisions now in force in anywise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any *East India* bond, with intent to defraud, shall extend and be applicable to and in respect of any bond, debenture, or security issued by the Secretary of State in Council of *India* under the authority of this Act.

Present system of issuing warrants for payments to be continued.

LI. The regulations and practice now acted on by the Court of Directors on the issue of warrants or authorities for the payment of money shall be maintained and acted on by the Secretary of State in Council of *India* under this Act until the same be altered by the authority of Her Majesty in Council: Provided, that where a warrant or authority for the payment of money passes through the audit department at the *East India House* before payment, it shall be countersigned by such officer or officers of that audit department as the Secretary of State in Council may direct before payment shall be made; and that warrants or authorities which have heretofore been signed by two Directors of the *East India* Company shall, after the commencement of this Act, be signed by three members of the Council of *India*.

As to the audit of accounts in Great Britain.

LII. It shall be lawful for Her Majesty, by warrant under Her royal sign manual, countersigned by the Chancellor of the Exchequer, to appoint from time to time a fit person to be auditor of the accounts of the Secretary of State in Council, and to authorize such auditor to appoint and remove from time to time such assistants as may be specified in such warrant; and every such auditor shall hold office during good behaviour; and there shall be paid to such auditor and assistants out of the revenues of *India* such respective salaries as Her Majesty, by warrant as aforesaid countersigned as aforesaid, may direct; and such auditor shall examine and audit the accounts of the receipt, expenditure, and disposal in *Great Britain* of all monies, stores, and property applicable for the purposes of this Act; and the Secretary of State in Council shall by the officers and servants of the establishment produce and lay before such auditor from time to time all such accounts, accompanied by proper vouchers for the support of the same, and shall submit to his inspection all books, papers, and writings having relation thereto; and such auditor shall have power to examine all such officers and servants in *Great Britain* of the establishment as he may see fit in relation to such accounts, and the receipt, expenditure, or disposal of such monies, stores, and property, and for that purpose, by writing under his hand, to summon before him any such officer or servant; and such auditor shall report from time to time to the Secretary of State in Council his approval or disapproval of such accounts, with such remarks and observations in relation thereto as he may think fit, specially noting any case, if such there shall be, in which it shall appear to him that any money arising out of the revenues of *India* has been appropriated to other purposes than those of the Government of *India* to which alone they are declared to be applicable; and shall specify in detail in his reports all sums of money, stores, and property which ought to be accounted for, and are not brought into account or have not been appropriated, in conformity with the provisions of this Act, or have been expended or disposed of without due authority, and shall also specify any defects, inaccuracies, or irregularities which may appear in such accounts, or in the authorities, vouchers, or documents having relation thereto; and all such reports shall be laid before both Houses of Parliament by such auditor, together with the accounts of the year to which the same may relate.

Accounts to be annually laid before Parliament.

LIII. The Secretary of State in Council shall, within the first fourteen days during which Parliament may be sitting next after the first day of *May* in every year, lay before both Houses of Parliament an account for the financial year preceding that last completed

of the annual produce of the revenues of *India*, distinguishing the same under the respective heads thereof, at each of the several Presidencies or Governments, and of all the annual receipts and disbursements at home and abroad on account of the Government of *India*, distinguishing the same under the respective heads thereof, together with the latest estimate of the same for the last financial year, and also the amount of the debts chargeable on the revenues of *India*, with the rates of interest they respectively carry, and the annual amount of such interest, the state of the effects and credits at each Presidency or Government, and in *England* or elsewhere, applicable to the purposes of the Government of *India*, according to the latest advices which have been received thereof, and also a list of the establishment of the Secretary of State in Council, and the salaries and allowances payable in respect thereof; and if any new or increased salaries or pensions of fifty pounds a year or upwards have been granted or created within any year, the particulars thereof shall be specially stated and explained at the foot of the account of such year; and such account shall be accompanied by a statement prepared from detailed reports from each Presidency and district in *India* in such form as shall best exhibit the moral and material progress and condition of *India* in each such Presidency.

When order to commence hostilities is sent to India, the fact to be communicated to Parliament.

LIV. When any order is sent to *India* directing the actual commencement of hostilities by Her Majesty's forces in *India*, the fact of such order having been sent shall be communicated to both Houses of Parliament within three months after the sending of such order, if Parliament be sitting, unless such order shall have been in the meantime revoked or suspended, and if Parliament be not sitting at the end of such three months then within one month after the next meeting of Parliament.

Except for repelling invasion, the revenues of India not applicable for any military operation beyond the frontiers.

LV. Except for preventing or repelling actual invasion of Her Majesty's *Indian* possessions, or under other sudden and urgent necessity, the revenues of *India* shall not, without the consent of both Houses of Parliament, be applicable to defray the expenses of any military operation carried on beyond the external frontiers of such possessions by Her Majesty's forces charged upon such revenues.

Existing Establishments.

Indian military and naval forces to remain under existing conditions of service.

LVI. The military and naval forces of the *East India* Company shall be deemed to be the *Indian* military and naval forces of Her Majesty, and shall be under the same obligations to serve Her Majesty as they would have been under to serve the said Company, and shall be liable to serve within the same territorial limits only, for the same terms only, and be entitled to the like pay, pensions, allowances, and privileges, and the like advantages as regards promotion and otherwise, as if they had continued in the service of the said Company: such forces, and all persons hereafter enlisting in or entering the same, shall continue and be subject to all Acts of Parliament, laws of the Governor General of *India* in Council, and Articles of War, and all other laws, regulations, and provisions relating to the *East India* Company's military and naval forces respectively, as if Her Majesty's *Indian* military and naval forces respectively had throughout such Acts, laws, articles, regulations, and provisions been mentioned or referred to, instead of

such forces of the said Company; and the pay and expenses of and incident to Her Majesty's *Indian* military and naval forces shall be defrayed out of the revenues of *India*.

Provision for persons hereafter entering Her Majesty's Indian forces.

LVII. Provided, that it shall be lawful for Her Majesty from time to time by order in Council to alter or regulate the terms and conditions of service under which persons hereafter entering Her Majesty's *Indian* forces shall be commissioned, enlisted, or entered to serve, and the forms of attestation and of the oath or declaration to be used and taken or made respectively on attesting persons to serve in Her Majesty's *Indian* forces shall be such as Her Majesty with regard to the *European* forces, and the Governor General of *India* in Council with regard to the Native forces, shall from time to time direct: Provided, that every such order in Council shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament be sitting, and if Parliament be not sitting, then within fourteen days after the next meeting thereof.

Officers, &c., in employ of the Company at the commencement of this Act to be deemed to hold offices under Her Majesty.

LVIII. All persons who at the time of the commencement of this Act shall hold any offices, employments, or commissions whatever under the said Company in *India*, shall thenceforth be deemed to hold such offices, employments, and commissions under Her Majesty as if they had been appointed under this Act, and shall be paid out of the revenues of *India*; and the transfer of any person to the service of Her Majesty shall be deemed to be a continuance of his previous service, and shall not prejudice any claims to pension, or any claims on the various annuity funds of the several Presidencies in *India*, which he might have had if this Act had not been passed.

All orders of the Court of Directors or Board of Control given before commencement of this Act to remain in force.

LIX. All orders, regulations, and directions lawfully given or made before the commencement of this Act by the Court of Directors or by the Commissioners for the affairs of *India* shall remain in force; but the same shall, from and after the commencement of this Act, be deemed to be the orders, regulations, and directions under this Act, and take effect and be construed and be subject to alteration or revocation accordingly.

Cesser of appointments and functions of Directors, &c.

LX. All functions and powers of Courts of proprietors and Courts of Directors of the said Company in relation to the Government of *India*, and all appointments of such of the Directors of the said Company as have been appointed by Her Majesty, shall cease, and the yearly sums payable to the chairman, deputy chairman, and other directors of the said Company shall cease to be payable, and all powers vested in Her Majesty of appointing directors of the said Company shall cease and determine.

Board of Control abolished.

LXI. The appointments and powers of appointment of Commissioners for the affairs of *India* shall cease and determine.

Records, &c., of the Company to be delivered into the care of Secretary of State in Council.

LXII. All books, records, and archives of the said Company, except such books and documents as concern the ownership of shares in the capital stock of the said Company, and the payments to the proprietors of such capital stock of their respective shares of the dividend thereon, shall be delivered into the care and custody of the Secretary of State in Council as they may direct.

A person succeeding to the office of Governor General may exercise his powers before he takes his seat in Council.

LXIII. In case the person who shall be entitled under any provisional appointment to succeed to the office of Governor General of *India* upon a vacancy therein, or who shall be appointed absolutely to assume that office, shall be in *India* (upon or after the happening of the vacancy, or upon or after the receipt of such absolute appointment, as the case may require), but shall be absent from *Fort William* in *Bengal*, or from the place where the Council of the Governor General of *India* may then be, and it shall appear to him necessary to exercise the powers of Governor General before he shall have taken his seat in Council, it shall be lawful for him to make known by proclamation his appointment, and his intention to assume the said office of Governor General, and after such proclamation, and thenceforth until he shall repair to *Fort William* or the place where the Council may assemble, it shall be lawful for him to exercise alone all or any of the powers which might be exercised by the Governor General in Council, except the power of making laws and regulations; and all acts done in the exercise of the said powers, except as aforesaid, shall be of the same force and effect as if they had been done by the Governor General in Council; provided that all acts done in the said Council after the date of such proclamation, but before the communication thereof to such Council, shall be valid, subject nevertheless to revocation or alteration by the person who shall have so assumed the said office of Governor General; and when the office of Governor General is assumed under the foregoing provision, if there be at any time before the Governor General takes his seat in Council, no Vice-President of the Council authorised to preside at meetings for making laws and regulations (as provided by Section twenty-two of the Act of the sixteenth and seventeenth years of Her Majesty), the senior ordinary member of Council then present shall preside therein, with the same powers as if a Vice-President had been appointed and were absent.

Continuance of existing enactments.

Existing provisions to be applicable to Secretary of State in Council, &c.

LXIV. All Acts and provisions now in force under charter or otherwise concerning *India* shall, subject to the provisions of this Act, continue in force, and be construed as referring to the Secretary of State in Council in the place of the said Company and the Court of Directors and Court of Proprietors thereof, and all enactments applicable to the officers and servants of the said Company in *India*, and to appointments to office or admissions to service by the said Court of Directors, shall, subject to the provisions of this Act, remain applicable to the officers and servants continued and to the officers and servants appointed or employed in *India*, and to appointments to office and admissions to service under the authority of this Act.

Actions and Contracts.

Secretary of State in Council may sue and be sued.

LXV. The Secretary of State in Council shall and may sue and be sued as well in *India* as in *England* by the name of the Secretary of State in Council as a body corporate; and all persons and bodies politic shall and may have and take the same suits, remedies, and proceedings, legal and equitable, against the Secretary of State in Council of *India* as they could have done against the said Company; and the property and effects hereby vested in Her Majesty for the purposes of the Government of *India*, or acquired for the said purposes,

shall be subject and liable to the same judgments and executions as they would while vested in the said Company have been liable to in respect of debts and liabilities lawfully contracted and incurred by the said Company.

Secretary of State in Council to come in the place of the Company with regard to pending suits, &c.

LXVI. The Secretary of State in Council shall, with respect to all actions, suits, and all proceedings by or against the said Company pending at the time of the commencement of this Act, come in the place of the said Company, and that without the necessity of substituting the name of the Secretary of State in Council for that of the said Company.

Treaties to be binding on Her Majesty, and contracts, &c., of Company may be enforced, &c.

LXVII. All treaties made by the said Company shall be binding on Her Majesty, and all contracts, covenants, liabilities, and engagements of the said Company made, incurred, or entered into before the commencement of this Act may be enforced by and against the Secretary of State in Council in like manner and in the same Courts as they might have been by and against the said Company if this Act had not been passed.

Members of Council not personally liable.

LXVIII. Neither the Secretary of State nor any member of the Council shall be personally liable in respect of any such contract, covenant, or engagement of the said Company as aforesaid, or in respect of any contract, entered into under the authority of this Act, or other liability of the said Secretary of State or Secretary of State in Council in their official capacity; but all such liabilities, and all costs and damages in respect thereof, shall be satisfied and paid out of the revenues of *India*.

The Directors elected by general court of Company, alone to be the directors of the Company.

LXIX. After the commencement of this Act such of the directors as have been elected by the general court of the said Company, or who shall from time to time be so elected, shall be the directors of the said Company, and the major part of such directors for the time being shall form a Court of directors; and where the presence, signature, consent, or concurrence of ten directors is now requisite, the presence, signature, consent, or concurrence of the major part of the directors for the time being shall be sufficient; and to the intent that the number of directors may be reduced to six, two directors only shall be elected by the general court of the said Company at each biennial election to fill the vacancies occasioned by the expiration of the term of office of directors; and so much of the said Act of the sixteenth and seventeenth years of Her Majesty as requires any of the directors to be persons who have resided ten years in *India* shall be repealed, and in the oath to be taken by a director of the said Company, under Section thirteen of the said Act, the words "in the administration of the Government of *India* in trust for the Crown" shall be omitted.

Provision as to reduction of number of directors.

Quarterly courts need not be summoned.

LXX. It shall no longer be obligatory on the directors to summon four general quarterly courts in every year as heretofore.

Company not to be liable in respect of any claim arising out of any covenant, &c., made before the passing of this Act.

LXXI. Except claims of mortgagees of the security fund hereinbefore mentioned, the said Company shall not, after the passing of this Act, be liable in respect of any claim, demand, or liability which has arisen or may hereafter arise out of any treaty, covenant, contract, grant, engagement, or fiduciary obligation made, incurred, or entered into by the said Company before the passing of this Act, whether the said Company

would, but for this Act, have been bound to satisfy such claim, demand, or liability out of the revenues of *India*, or in any other manner whatsoever.

Saving of certain rights of the Company.

As to payment of expenses of the Company in respect of their capital stock and dividend.

LXXII. It shall be lawful for the Secretary of State in Council to pay to the said Company out of the revenues of *India* such annual sum as Her Majesty, by warrant under Her royal sign manual, countersigned by the Chancellor of the Exchequer, may direct for defraying the expenses of and incident to the payment to the proprietors of the capital stock of the said Company of their respective shares of the dividend on such stock, and of keeping the books of the said Company for transfers, and otherwise in relation to such stock.

Saving of the rights of the Company in respect of their dividend and security fund.

LXXIII. Nothing herein contained shall affect the preference secured by the said Act of the third and fourth years, of King *William* the Fourth to the dividend on the capital stock of the said Company or the right of the said Company to demand the redemption of the said dividend secured by such Act; and all the provisions of the said Act concerning the security fund thereby created shall remain in force, save that when the approbation of the Commissioners for the affairs of *India* is required in relation to the disposal of the said security fund, the approbation of the Secretary of State in Council shall be required.

Commencement of the Act.

Commencement of Act.

LXXIV. Save as herein otherwise provided, this Act shall commence and take effect on the expiration of thirty days after the day of the passing thereof.

Provision as to proceedings in India before the Act is proclaimed there.

LXXV. This Act shall be proclaimed in the several Presidencies and Governments of *India* as soon as conveniently may be after such Act has been received by the Governor General of *India*; and until such proclamation be made all acts, matters, and things done, ordered, directed, or authorized in *India* in the name of the *East India* Company, or otherwise in relation to the Government of *India*, shall be as valid and effectual as if this Act had not been passed.

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22 VICTORIÆ, CAP. XI.

AN ACT *to enable the Secretary of State in Council of India to raise money in the United Kingdom for the service of the Government of India.*

[*8th April* 1859.]

Preamble.

WHEREAS, in consequence of the recent disturbances in *India*, it is expedient that the Secretary of State in Council of *India* should be enabled to raise money in the United Kingdom on the credit of the revenues of *India*: Be it therefore enacted &c.

Power to the Secretary of State in Council of India to raise any sum not exceeding seven millions.

I. It shall be lawful for the Secretary of State in Council of *India*, at any time or times before the thirtieth day of *April*, one thousand eight hundred and sixty, or, if Parliament be then sitting, before the end of the then Session of Parliament, to raise in the United Kingdom for the service of the Government of *India*, any sum or sums of money not exceeding in the whole seven millions as hereinafter provided,

Money may be raised on bonds under the hands of three members of the Council of India, countersigned by Secretary of State, or one Under Secretary.

II. It shall be lawful for the said Secretary of State in Council from time to time to borrow upon bonds to be issued under the hands of three members of the Council of *India*, and countersigned by the Secretary of State for *India*, or one of his Under Secretaries or his Assistant Under Secretary, all or any part of the money hereby authorized to be raised as aforesaid; such bonds to be for such respective amounts, payable after such notice, and at such rate or rates of interest as the said Secretary of State in Council may think fit.

When money not borrowed on bond, debentures may be issued.

III. For raising all or any part of the money by this Act authorized to be raised which may not be borrowed on bond as aforesaid, it shall be lawful for the said Secretary of State in Council to issue from time to time debentures under the hands of three members of the said Council, and countersigned as aforesaid, for such respective amounts, and at such rate or rates of interest, as the said Secretary of State in Council may think fit; such debentures to be issued at or for such prices and on such terms as may be determined by the said Secretary of State in Council.

As to payment of principal and interest on debentures.

IV. All debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively; and the interest on all such debentures shall be payable half yearly, on such days as shall be mentioned therein; and the principal moneys and interest secured by such debentures shall be payable at the treasury of the said Secretary of State in Council in *London*.

Debentures transferable by delivery or deed.

V. All or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal moneys secured thereby, and all interest due and accruing thereon, shall be transferable either by the delivery of such debentures respectively, or, at the discretion of the Secretary of State in Council, by deed.

The whole amount secured by bonds, &c., not to exceed seven millions.

VI. The whole amount of principal moneys to be secured by bonds or debentures, or by bonds and debentures, to be issued under this Act, shall not exceed seven millions, and no money shall be raised or secured under the authority of this Act after the said thirtieth day of *April* one thousand eight hundred and sixty, or, if Parliament be then sitting, after the end of the then Session of Parliament, save for or upon the re-payment of principal moneys previously secured under this Act, as hereinafter provided.

Power to raise money for re-payment of principal moneys.

VII. Upon or for the re-payment of the principal money secured under the authority of this Act, or any part of such money, the said Secretary of State in Council may at any time borrow or raise by bonds or debentures as aforesaid all or any part of the amount of principal money repaid or to be repaid, and so from time to time, as all or any part of any principal money for the time being secured under this Act may require to be repaid; but the amount to be secured by new securities shall not in any case exceed the principal money required to be repaid.

Securities to be charged on revenues of India.

VIII. All bonds and debentures to be issued under this Act, and the principal money and interest thereby secured, shall be charged on and payable out of the revenues of *India*, in like manner as other liabilities incurred on account of the Government of the said territories.

Provision as to composition for stamp duties on India bonds extended to bonds and debentures under this Act.

IX. The provisions contained in Section 4 of the Act of the Session holden in the fifth and sixth years of King *William* the Fourth, Chapter sixty-four, with respect to the composition and agreement for the payment by the *East India* Company of an annual sum in lieu of stamp duties on their bonds, and the exemption of their bonds from stamp duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto.

Forgery of debentures to be punishable as forgery of East India bonds.

X. All provisions now in force in any wise relating to the offence of forging, or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any *East India* bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority.

Returns to be annually prepared of moneys raised on loan, &c., and presented to Parliament.

XI. Provided always, that on or before the first day of *February* in each year the said Secretary of State in Council shall prepare or cause to be prepared a return of all moneys raised on loan under the provisions of this Act; also, a return of all stocks, loans, debts, and liabilities then chargeable on the revenues of *India* at home and abroad, up to the latest period of time to which such return can be made out: That all such returns shall be presented to both Houses of Parliament on or before the first day of *February* in each year, if Parliament is then sitting; and if Parliament is not sitting, then such returns shall be presented within ten days of the first meeting of Parliament after the first day of *February* in each year.

Saving powers of the Secretary of State in Council.

XII. This Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of the passing thereof.

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22 VICTORIÆ, CAP. XX.

An Act *to provide for taking evidence in suits and proceedings pending before tribunals in Her Majesty's dominions in places out of the jurisdiction of such tribunals.*

[19*th April* 1859.]

Preamble.

Whereas it is expedient that facilities be afforded for taking evidence in or in relation to actions, suits, and proceedings pending before tribunals in Her Majesty's dominions in places in such dominions out of the jurisdiction of such tribunals: Be it enacted &c.

Order for examination of witnesses out of the jurisdiction in relation to any suit pending before any tribunal in Her Majesty's possessions.

I. Where upon an application for this purpose it is made to appear to any Court or Judge having authority under this Act that any Court or tribunal of competent jurisdiction in Her Majesty's dominions has duly authorized, by commission, order, or other process, the obtaining the testimony in or in relation to any action, suit, or proceeding pending in or before such Court or tribunal of any witness or witnesses out of the juris-

diction of such Court or tribunal, and within the jurisdiction of such first-mentioned Court, or of the Court to which such Judge belongs, or of such Judge, it shall be lawful for such Court or Judge to order the examination before the person or persons appointed, and in manner and form directed by such Commission, order, or other process as aforesaid, of such witness or witnesses accordingly; and it shall be lawful for the said Court or Judge by the same order, or for such Court or Judge, or any other Judge having authority under this Act, by any subsequent order, to command the attendance of any person to be named in such order for the purpose of being examined, or the production of any writings or other documents to be mentioned in such order, and to give all such directions as to the time, place, and manner of such examination, and all other matters connected therewith, as may appear reasonable and just, and any such order may be enforced, and any disobedience thereof punished, in like manner as in case of an order made by such Court or Judge in a cause depending in such Court or before such Judge.

Penalty on persons giving false evidence.

II. Every person examined as a witness under any such commission, order, or other process as aforesaid, who shall upon such examination wilfully and corruptly give any false evidence, shall be deemed and taken to be guilty of perjury.

Payment of expenses.

III. Provided always, that every person whose attendance shall be so ordered shall be entitled to the like conduct money, and payment for expenses and loss of time, as upon attendance at a trial.

Power to person to refuse to answer questions to criminate himself, or to produce documents.

IV. Provided also, that every person examined under any such commission, order, or other process as aforesaid, shall have the like right to refuse to answer questions tending to criminate himself, and other questions which a witness in any cause pending in the Court by which, or by a Judge whereof, or before the Judge by whom the order for examination was made, would be entitled to; and that no person shall be compelled to produce under any such order as aforesaid any writing or other document that he would not be compellable to produce at a trial of such a cause.

Certain Courts and Judges to have authority under this Act.

V. Her Majesty's Superior Courts of Common Law at *Westminster* and in *Dublin* respectively, the Court of Session in *Scotland*, and any Supreme Court in any of Her Majesty's colonies or possessions abroad, and any Judge of any such Court, and every Judge in any such colony or possession who, by any order of Her Majesty in Council, may be appointed for this purpose, shall respectively be Courts and Judges having authority under this Act.

Power to Judges to frame rules, &c., for giving effect to provisions of this Act.

VI. It shall be lawful for the Lord Chancellor of *Great Britain*, with the assistance of two of the Judges of the Courts of Common Law at *Westminster*, so far as relates to *England*, and for the Lord Chancellor of *Ireland*, with the assistance of two of the Judges of the Courts of Common Law at *Dublin*, so far as relates to *Ireland*, and for two of the Judges of the Court of Session, so far as relates to *Scotland*, and for the chief or only Judge of the Supreme Court in any of Her Majesty's colonies or possessions abroad, so

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far as relates to such colony or possession, to frame such rules and orders as shall be necessary or proper for giving effect to the provisions of this Act, and regulating the procedure under the same.

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22 & 23 VICTORIÆ, CAP. XII.

An Act to repeal, as regards the colony of Victoria, and to enable other colonial legislatures to repeal, certain provisions of the Imperial Acts of the fifty-fourth year of George the Third, Chapter fifteen, and of the fifth and sixth years of William the Fourth, Chapter sixty-two.

[*8th August* 1859.]

Preamble.

Whereas by the first, second, and third Sections of an Act passed in the fifty-fourth year of His late Majesty King *George* the Third, intituled an Act for the more easy recovery of debts in Her Majesty's colonies of *New South Wales*, provision was made for the proof, by affidavit, affirmation, or otherwise, of certain matters requiring to be proved before any Courts of Law or Equity in *New South Wales* or its dependencies, and for the punishment of persons guilty of making such affidavits or affirmations falsely: And whereas by the fifteenth and seventeenth Sections of an Act passed in the Session of Parliament held in the fifth and sixth years of His late Majesty King *William* the Fourth, intituled an Act to repeal an Act of the present Session of Parliament, intituled "an Act for the effectual abolition of oaths and affirmations taken and made in various Departments of the State, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial oaths and affidavits, and to make other provisions for the abolition of unnecessary oaths," provision was made for the proof by solemn declaration or otherwise of certain matters or things requiring to be proved before any Court of Law or Equity in Her Majesty's possessions abroad: And whereas it is expedient that the provisions above recited should be repealed regards the colony of *Victoria*, and that as well the said provisions as the fourth Section of the said first-recited Act of Parliament should be alterable or repealable as regards any of Her Majesty's possessions abroad by the legislature or other legislative authority of such possession: Be it therefore enacted &c.

Certain Sections of recited Acts repealed so far as they apply to the colony of Victoria.

I. The first, second, and third Sections of the said first-recited Act of Parliament, and the fifteenth and seventeenth Sections of the said secondly-recited Act of Parliament, shall be and they are hereby repealed so far as they apply to Her Majesty's colony of *Victoria*.

Power to colonial legislatures to repeal, alter, or amend provisions of recited Acts so far as applicable to such possessions.

II. It shall be lawful for the legislature or other legislative authority of any of Her Majesty's possessions abroad to which any of the provisions contained in the said first-recited Act, or in the fifteenth or seventeenth Section of the said secondly-recited Act, shall apply, to repeal, alter, or amend all or any of the provisions, so far as applicable to such possession, in like manner and subject to the same conditions as if the same had been originally enacted by such legislature or legislative authority.

22 & 23 VICTORIÆ, CAP. XXVII.

AN ACT *to repeal the thirty-first Section of the Act of the sixteenth and seventeenth years of Victoria, Chapter ninety-five, and to alter the limit of the number of European troops to be maintained for local service in India.*

[13*th August* 1859.]

[Repealed in part by 23 & 24 Vic., cap. C.]

Preamble

WHEREAS it is expedient to repeal so much of the Section numbered thirty-one of an Act passed in the Session holden in the sixteenth and seventeenth years of Her Majesty, Chapter ninety-five, as limits the number of *European* forces of the *East India* Company to be raised and maintained at any one time out of the revenues arising from the territories subject to the Government of the said Company to twenty thousand men, and limits the number of non-commissioned officers and private men which it should be lawful for the said Company to enlist and have in pay and train and discipline under the Act of the thirty-ninth year of King *George* the Third, Chapter one hundred and nine, at any one time, to four thousand: Be it enacted &c.

Limit of European troops of Her Majesty's Indian Army.

I It shall be lawful for the Secretary of State in Council, at any time after the passing of this Act, and from time to time, to give such directions as he may think fit for raising and maintaining out of the revenues arising from the territories of *India* vested in Her Majesty by virtue of an Act passed in the Session holden in the twenty-first and twenty-second years of the reign of Her Majesty, Chapter one hundred and six, such number of *European* forces as he may judge necessary for the *Indian* Army of Her Majesty, so that the number of such forces at any one time do not amount in the whole to more than thirty thousand men, not including the commissioned and non-commissioned officers; and it shall be lawful for Her Majesty to enlist, and have in pay and maintain out of the said revenues in the United Kingdom of *Great Britain* and *Ireland* and the *British* Isles, any number of non-commissioned officers and private men belonging to the said *Indian* Army, not exceeding at any one time six thousand.

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22 & 23 VICTORIÆ, CAP. XXXIX.

AN ACT *to enable the Secretary of State in Council of India to raise money in the United Kingdom for the service of the Government of India.*

[13*th August* 1859]

(1.) [Power to the Secretary of State in Council of India to raise any sum not exceeding five millions.]

(2.) [Bonds may be issued under the hands of two members of the Council, countersigned by Secretary of State or one Under Secretary.]

(3.) [Debentures may be issued.]

(4.) [As to payment of principal and interest on debentures.]

(5.) [Debentures transferable by delivery or deed; Coupons by delivery.]

(6.) [Capital stock and annuities may be created and issued.]

(7.) [Transfer books of such capital stock and annuities to be kept.]

(8.) [Annuities personal estate.]

(9.) [The whole amount charged on revenue of India not to exceed five millions.]

(10.) [Power to raise money for payment of principal money.]

(11.) [Securities, &c., to be charged on revenues of India.]

(12.) [Provision as to composition for stamp duties on India bonds extended to bonds and debentures under this Act.]

(13.) [Forgery of debentures to be punishable as forgery of East India bonds.]

(14.) [Returns to be annually prepared of moneys raised on loan, &c., and presented to Parliament.]

(15.) [Saving powers of the Secretary of State in Council.]

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22 & 23 VICTORIÆ, CAP. XLI.

AN ACT *to amend the Act for the better government of India.*

[13*th August* 1859.]

Preamble.

WHEREAS an Act was passed in the Session holden in the twenty-first and twenty-second years of the reign of Her present Majesty, intituled An Act for the better government of *India*: And whereas it has been considered that, under the enactment in the fortieth Section of the said Act, the local Governments in *India* and officers intrusted with the charge of provinces or districts there respectively cannot enter into and execute such contracts and assurances in *India* on behalf of the Secretary of State in Council as before the commencement of the said Act they were respectively competent to enter into and execute on behalf of the *East India* Company, and it is expedient to give them such powers: And whereas doubts have arisen as to the proper mode of the execution of contracts entered into by the Secretary of State in Council pursuant to the provision of the said fortieth Section of the said Act, and it is expedient that such doubts should be removed: And whereas it is expedient to alter so much of the enactment in the forty-third Section of the said Act as relates to the mode of signing and countersigning the drafts or orders therein mentioned: Be it therefore enacted &c.

Powers to execute contracts vested in Government of India.

I. The Governor General of *India* in Council, the Governor in Council of *Fort St. George*, the Governor in Council of *Bombay*, the Lieutenant Governor of the North-Western Provinces now under the Presidency of *Fort William* in *Bengal*, respectively, or any officer for the time being intrusted with the government, charge, or care of any Presidency, province, or district in *India*, subject to such provisions or restrictions as the Secretary of State in Council, with the concurrence of a majority of votes at a meeting, shall from time to time prescribe, are hereby respectively empowered to sell and dispose of all real and personal estate whatsoever in *India* for the time being vested in Her Majesty under the said Act, within the limits of their respective Governments, provinces, or districts, or to raise money on any such real estate by way of mortgage, and to make proper assurances for that purpose, and to purchase and acquire any land or hereditaments, or any

interest therein, stores, goods, chattels, and other property in *India*, within the said respective limits, and to enter into any contracts whatsoever, within the said respective limits, for the purposes of the said Act, and all property so acquired shall vest in Her Majesty for the service of the Government of *India*.

Mode of executing contracts in India.

II. The Secretary of State in Council may be named as a party to any such deed, contract, or other instrument, and it shall be sufficient to use the designation of Secretary of State in Council in such deed, contract, or other instrument, and the same may be expressed to be executed on behalf of the Secretary of State in Council, by or by order of the Governor General in Council, Governor in Council, Lieutenant Governor of the North-Western Provinces, or other officer intrusted as aforesaid, but may be executed in other respects in like manner as other instruments executed by or on behalf of him or them respectively in his or their official capacity, and may be enforced by or against the Secretary of State in Council for the time being; and neither the Secretary of State, nor any member of the Council, nor any person executing such deed, contract, or other instrument, shall be personally liable in respect thereof; and all liabilities, costs, and damages in respect thereof shall be satisfied and paid out of the revenues of *India*.

Secretary of State and Council not to be personally liable.

Mode of signing drafts or orders on Bank of England.

III. Notwithstanding anything contained in the said Act, it shall be lawful for the Governor and Company of the Bank of *England* to pay out all or any of the moneys paid to the credit of the account opened under the said Act by the Governor and Company of the Bank of *England*, intituled "The Account of the Secretary of State in Council of *India*," upon any drafts or orders signed by the Accountant General on the establishment of the Secretary of State in Council, or by either of the two senior clerks in the department of the said Accountant General, and countersigned in such manner as the Secretary of State for *India* in Council shall from time to time order or establish, and any draft or order signed and countersigned as aforesaid, or in manner directed by the said Act, shall effectually discharge the Bank of *England* for all moneys paid upon the same.

As to validity of contracts, &c., entered into before the passing of this Act.

IV. If before the passing of this Act any contracts or assurances shall have been entered into or made on behalf of the Secretary of State in Council, or the Government of *India*, by any person in *India* who, previously to the commencement of the said Act, would have been authorized to enter into and make the same on behalf of the *East India* Company, such contracts or assurances shall have the same validity in favour of and against the Secretary of State in Council as they would have had in favour of and against the said Company if made on behalf of the said Company, and if the said Act had not been passed; but neither the Secretary of State nor any member of the Council shall be personally liable in respect of any such contracts or assurances; and all liabilities, costs, and damages in respect thereof shall be satisfied and paid out of the revenues of *India*.

Mode of executing contracts.

V. All contracts purporting to be entered into by the Secretary of State in Council which shall have been previous to the passing of this Act made under the hands and seals or hands of three or more members of Council shall be as valid and effectual,

to all intents and purposes whatsoever, as the same would have been if Section forty of the said Act had contained an express provision that the contracts to be entered into by the Secretary of State in Council pursuant to that Act might be so made; and from and after the passing of this Act all contracts in writing entered into by the Secretary of State in Council, with the concurrence of a majority of votes at a meeting, may be expressed to be made by the Secretary of State in Council under that designation, and if such as, if made between private persons, would be by law required to be under seal may be made, varied, or discharged under the hands and seals of two members of the Council, or if such as, if made between private persons, would be by law required to be signed by the parties to be charged therewith, may be made, varied, or discharged under the hands of two members of the Council; and the benefit and liability of such contracts shall pass to the Secretary of State in Council for the time being.

Actions to be carried on in name of Secretary of State for India.

VI. All actions, suits, and proceedings in any Court of Justice in respect of any of the matters aforesaid shall and may be carried on, prosecuted, or defended in the name of the Secretary of State for *India* in Council.

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22 & 23 VICTORIÆ, CAP. LXIII.

AN ACT *to afford facilities for the more certain ascertainment of the law administered in one part of Her Majesty's dominions when pleaded in the Courts of another part thereof.*

[13*th August* 1859.]

Preamble.

WHEREAS great improvement in the administration of the law would ensue if facilities were afforded for more certainly ascertaining the law administered in one part of Her Majesty's dominions when pleaded in the Courts of another part thereof: Be it therefore enacted &c.

Courts in one part of Her Majesty's dominions may remit a case for the opinion in law of a Court in any other part thereof.

I. If in any action depending in any Court within Her Majesty's dominions, it shall be the opinion of such Court, that it is necessary or expedient for the proper disposal of such action to ascertain the law applicable to the facts of the case as administered in any other part of Her Majesty's dominions on any point on which the law of such other part of Her Majesty's dominions is different from that in which the Court is situate, it shall be competent to the Court in which such action may depend to direct a case to be prepared setting forth the facts, as these may be ascertained by verdict of a jury or other mode competent, or may be agreed upon by the parties, or settled by such person or persons as may have been appointed by the Court for that purpose in the event of the parties not agreeing, and upon such case being approved of by such Court or a Judge thereof, they shall settle the questions of law arising out of the same on which they desire to have the opinion of another Court, and shall pronounce an order remitting the same, together with the case, to the Court in such other part of Her Majesty's dominions, being one of the Superior Courts thereof, whose opinion is desired upon the law administered by them as applicable to the facts set forth in such case, and desiring them to pronounce their opinion on the questions submitted to them in the terms of the Act; and it

shall be competent to any of the parties to the action to present a petition to the Court whose opinion is to be obtained, praying such last-mentioned Court to hear parties or their Counsel, and to pronounce their opinion thereon in terms of this Act, or to pronounce their opinion without hearing parties or Counsel; and the Court to which such petition shall be presented shall, if they think fit, appoint an early day for hearing parties or their Counsel on such case, and shall thereafter pronounce their opinion upon the questions of law as administered by them which are submitted to them by the Court; and in order to their pronouncing such opinion they shall be entitled to take such further procedure thereupon as to them shall seem proper.

Opinion to be authenticated and certified copy given.

II. Upon such opinion being pronounced, a copy thereof, certified by an officer of such Court, shall be given to each of the parties to the action by whom the same shall be required, and shall be deemed and held to contain a correct record of such opinion.

Opinion to be applied by the Court making the remit.

III. It shall be competent to any of the parties to the action, after having obtained such certified copy of such opinion, to lodge the same with an officer of the Court in which the action may be depending, who may have the official charge thereof, together with a notice of motion, setting forth that the party will, on a certain day named in such notice, move the Court to apply the opinion contained in such certified copy thereof to the facts set forth in the case hereinbefore specified, and the said Court shall thereupon apply such opinion to such facts, in the same manner as if the same had been pronounced by such Court itself upon a case reserved for opinion of the Court, or upon special verdict of a jury; or the said last-mentioned Court shall, if it think fit, when the said opinion has been obtained before trial, order such opinion to be submitted to the jury with the other facts of the case as evidence, or conclusive evidence as the Court may think fit, of the foreign law therein stated, and the said opinion shall be so submitted to the jury.

Her Majesty in Council or House of Lords on appeal may adopt or reject opinion.

IV. In the event of an appeal to Her Majesty in Council or to the House of Lords in any such action, it shall be competent to bring under the review of Her Majesty in Council or of the House of Lords the opinion pronounced as aforesaid by any Court whose judgments are reviewable by Her Majesty in Council or by the House of Lords, and Her Majesty in Council or that House may respectively adopt or reject such opinion of any Court whose judgments are respectively reviewable by them, as the same shall appear to them to be well founded or not in law.

Interpretation of terms.

V. In the construction of this Act, the word "action" shall include every judicial proceeding instituted in any Court, civil, criminal, or ecclesiastical; and the words "Superior Courts" shall include, in *England*, the Superior Courts of Law at *Westminster*, the Lord Chancellor, the Lords Justices, the Master of the Rolls or any Vice-Chancellor, the Judge of the Court of Admiralty, the Judge ordinary of the Court for divorce and matrimonial causes, and the Judge of the Court of probate; in *Scotland*, the High Court of justiciary, and the Court of Session acting by either of its divisions; in *Ireland*, the Superior Courts of law at *Dublin*, the Master of the Rolls, and the Judge of the Admiralty Court; and in any other part of Her Majesty's dominions, the Superior Courts of Law or Equity therein.

23 & 24 VICTORIÆ, CAP. V.

AN ACT *to regulate Probate and Administration with respect to certain Indian Government Securities; to repeal certain Stamp Duties; and to extend the operation of the Act of the twenty-second and twenty-third years of Victoria, Chapter Thirty-nine, to Indian Bonds.*

[23*rd March* 1860.]

Preamble

WHEREAS at various times the Executive Government of *India* has raised moneys for the public service by the issue of Government Promissory Notes and by Government loans severally payable in *India*, and by various public notifications of the said Government, or regulations to be made by the Secretary of State in Council, the owners of such notes have been or may be allowed the privilege of having the current interest thereon made payable in *London* by drafts payable in *India*, and the holders or owners of shares or portions of such loans have been or may be allowed the privilege of having the same registered and made transferable, and the interest thereon made payable in *London*: And whereas upon the death of the holders of notes as to which the said privilege shall have been claimed questions may arise as to the place in which the same are properly to be deemed assets of the deceased owner, and it is for the convenience and advantage of the estates of such persons that the same should be deemed assets in this country and not in *India*: And whereas by an Act passed in the Session holden in the fifth and sixth years of the reign of His late Majesty King *William* the Fourth, Chapter sixty-four, Section five, the transfer of any part of the territorial debt of the *East India* Company in *India* in the books of the said Company in *England*, whether upon a sale thereof or otherwise, was made chargeable with a stamp duty of one pound ten shillings, and it is expedient to repeal so much of the said Act as imposes the said stamp duty: And whereas under the authority of various Acts of Parliament the *East India* Company were empowered to raise money upon bonds to be issued under their common seal, and the said bonds formerly constituted the bond debt of the *East India* Company, and are commonly designated *East India* bonds: And whereas by an Act passed in the Session holden in the twenty-first and twenty-second years of the reign of Her present Majesty, Chapter one hundred and six, Section sixty-seven, all liabilities of the *East India* Company were transferred to the Secretary of State in Council: And whereas by an Act passed in the last Session of Parliament, Chapter thirty-nine, power was given to the Secretary of State in Council to raise money by bonds or debentures or the creation of a capital stock or annuities upon or for the re-payment of any principal money secured under the authority of the said Act or of either of the Acts therein recited: And whereas it is expedient to extend such power of raising money to the re-payment of any of the *East India* bonds aforesaid: Be it therefore enacted &c.

Indian Government Notes on which interest is payable in London, and certain

I. All *Indian* Government Promissory Notes, and certificates issued or stock created in lieu thereof, being assets of a deceased person, the interest whereon or in respect of which shall be payable in *London* by drafts payable in *India*, and which at the decease of

the owner thereof shall have been registered in the books of the Secretary of State in Council in *London*, or in the books of the Governor and Company of the Bank of *England*, or shall have been enfaced in *India* for the purpose of being so registered before the decease of the owner thereof, and all *Indian* Government Promissory Notes issued with coupons attached which, under such regulations and conditions as may be determined from time to time by the Secretary of State in Council, shall be so registered, and all certificates issued or stock created in lieu thereof, shall be deemed and taken to be personal estate and *bona notabilia* of such deceased person in *England*, and probate or letters of administration in *England*, or confirmation granted in *Scotland*, and sealed with the seal of the principal Court of Probate in *England*, in pursuance of the provisions of the "Confirmation and Probate Act, 1858," shall be valid and sufficient to constitute the persons therein named the legal personal representatives of the deceased with respect to such notes and moneys as aforesaid.

Indian Government Promissory Notes, to be deemed *bona notabilia* in England.

Probate, &c., or confirmation granted in Scotland valid, &c.

II. So much of the fifth Section of the said first-recited Act as enacts that every transfer of any part of the said territorial debt in the books of the *East India* Company in *England*, whether upon a sale thereof or otherwise, shall be chargeable with a stamp-duty of one pound ten shillings and no more, is hereby repealed; and no transfer of any part of the said territorial debt or of *Indian* Government loans registered and transferable in the books of the Secretary of State in Council in *London*, or in the books of the Governor and Company of the Bank of *England*, shall be chargeable with any stamp-duty.

Transfers of territorial debt and of Indian Government loans not chargeable with stamp-duty.

III. Upon or for the re-payment of any principal money secured by the said bonds, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes authorized by the said recited Act passed in the Session holden in the twenty-second and twenty-third years of Her present Majesty, Chapter thirty-nine, all or any part of the principal money so repaid or to be repaid, and so from time to time as all or any part of the principal money secured by the said bonds may have been repaid or require to be repaid, but the amount to be charged upon the revenues of *India* shall not in any case exceed the principal money repaid or required to be repaid; and the provisions of the said recited Act with reference to the creation of the capital stock and annuities created under the authority of the said Act, and with reference to the issue, payment, and transfer of the capital stock, annuities, bonds, and debentures issued under the authority of the said Act, shall be held to be in force and to apply to the creation, issue, payment, and transfer of the capital stock, annuities, bonds, and debentures created and issued under the authority of this Act.

Power to raise money under Act 22 & 23 Vic., c. 39, extended to re-payment of East India bonds.

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23 & 24 VICTORIÆ, CAP. LXXXVII.

AN ACT *to remove doubts as to the authority of the Senior Member of the Council of the Governor General of India in the absence of the President.*

[13*th August* 1860.]

[Repealed by 24 & 25 Vic., cap. 67, sec. 2.]

23 & 24 VICTORIÆ, CAP. LXXXVIII.

An Act to extend certain provisions for Admiralty jurisdiction in the colonies to Her Majesty's territories in India.

[13*th August* 1860.]

Preamble.
12 & 13 Vic., c. 96.

Whereas an Act was passed in the Session holden in the twelfth and thirteenth years of Her Majesty, Chapter ninety-six, "to provide for the prosecution and trial in Her Majesty's colonies of offences committed within the jurisdiction of the Admiralty," and by such Act it was provided, that for the purposes thereof the word "colony" should mean any island, plantation, colony, dominion, fort, or factory of Her Majesty, except the United Kingdom and the islands of *Man, Guernsey, Jersey, Alderney,* and *Sark,* and the islands adjacent thereto respectively, and except also all such parts and places as were under the government of the *East India* Company: And whereas it is expedient that the provisions of the said Act should extend to all parts and places heretofore under the government of the *East India* Company in like manner as to other colonial and foreign possessions of Her Majesty: Be it therefore enacted &c.

Provisions of the recited Act to extend to India.

I. So much of the said Act as excepts the parts and places then under the government of the *East India* Company, from the interpretation of the word "colony" shall be repealed, and for the purposes of the said Act the word "colony" therein shall include and apply to every part and place heretofore under the government of the *East India* Company, or which may be under the government of Her Majesty in *India,* and all the provisions of the said Act shall be construed and take effect accordingly.

Provision for persons entitled to be tried by the Supreme Court of a Presidency.

II. Provided always, that where any person within any place in *India* is charged with the commission of any offence in respect of which jurisdiction is given by the said Act, or where any person charged with the commission of any such offence is brought for trial under the said Act to any place in *India,* if at any time before his trial he make it appear to the Court exercising criminal jurisdiction in the place where he is so charged or brought for trial, that in case the offence charged had been committed in such place he could have been tried only in the Supreme Court of one of the three Presidencies in *India,* and claim to be tried by such a Supreme Court accordingly, the said Court exercising criminal jurisdiction as aforesaid shall certify the fact and claim to the Governor of such place or chief local authority thereof, and such Governor or chief local authority thereupon shall order and cause the person charged to be sent in custody to such one of the Presidencies as such Governor shall think fit for trial before the Supreme Court of such Presidency, and the said Supreme Court and all public officers and other persons in the Presidency shall have the same jurisdiction and authorities, and proceed in the same manner in relation to the person charged with such offence, as if the same had been committed or originally charged to have been committed within the limits of the ordinary jurisdiction of such Supreme Court.

[Note.—*Here follows the Act above referred to :—*]

12 & 13 Victoriæ, Cap. 96.

An Act *to provide for the prosecution and trial in Her Majesty's Colonies of offences committed within the jurisdiction of the Admiralty.*

[1*st August* 1849.]

Preamble 10 & 11 W. 3, c. 7.

Whereas by an Act passed in the eleventh year of the reign of King *William* the Third, intituled an Act for the more effectual suppression of piracy, it is enacted, that all piracies, felonies, and robberies committed on the sea, or in any haven, river, creek, or place where the Admiral or Admirals have power, authority, or jurisdiction, may be examined, inquired of, tried, heard, and determined, and adjudged, in any place at sea or upon the land in any of His Majesty's islands, plantations, colonies, dominions, forts, or factories, to be appointed for that purpose by the King's commission, in the manner therein directed, and according to the civil law and the method and rules of the Admiralty: And whereas by an Act passed in the forty-sixth year of the reign of King *George* the Third, intituled an Act for the speedy trial of offences committed in distant parts upon the sea, it is enacted, that all treasons, piracies, felonies, robberies, murders, conspiracies, and other offences of what nature or kind soever, committed upon the sea, or in any haven, river, creek, or place where the Admiral or Admirals have power, authority, or jurisdiction, may be inquired of, tried, heard, determined, and adjudged, according to the common course of the laws of this realm used for offences committed upon the land within this realm, and not otherwise, in any of His Majesty's islands, plantations, colonies, dominions, forts, or factories under and by virtue of the King's commission or commissions under the great seal of *Great Britain*, to be directed to Commissioners in the manner and with the powers and authorities therein provided: And whereas it is expedient to make further and better provision for the apprehension, custody, and trial in Her Majesty's islands, plantations, colonies, dominions, forts, and factories of persons charged with the commission of such offences on the sea, or in any such haven, river, creek, or place as aforesaid: Be it therefore enacted &c. 46 G. 3, c. 54.

All persons charged in any colony with offences committed on the sea, may be dealt with in the same manner as if the offences had been committed on waters within the local jurisdiction of the Courts of the colony.

I. That if any person within any colony shall be charged with the commission of any treason, piracy, felony, robbery, murder, conspiracy, or other offence, of what nature or kind soever, committed upon the sea, or in any haven, river, creek, or place where the Admiral or Admirals have power, authority, or jurisdiction, or if any person charged with the commission of any such offence upon the sea, or in any such haven, river, creek, or place shall be brought for trial to any colony, then and in every such case all Magistrates, Justices of the Peace, public prosecutors, juries, Judges, Courts, public officers, and other persons in such colony shall have and exercise the same jurisdiction and authorities for inquiring of, trying, hearing, determining, and adjudging such offences, and they are hereby respectively authorized, empowered, and required to institute and carry on all such proceedings for the bringing of such person so charged as aforesaid to trial, and for and auxiliary to and consequent upon the trial of any such person for any such offence wherewith he may be charged as aforesaid, as by the law of such colony would and ought to

have been had and exercised or instituted and carried on by them respectively if such offence had been committed, and such person had been charged with having committed the same, upon any waters situate within the limits of any such colony, and within the limits of the local jurisdiction of the Courts of criminal justice of such colony.

Persons convicted of such offences shall suffer the like punishments as on conviction of like offences in England.

II. Provided always, and be it enacted, that if any person shall be convicted before any such Court of any such offence, such person so convicted shall be subject and liable to and shall suffer all such and the same pains, penalties, and forfeitures as by any law or laws now in force persons convicted of the same respectively would be subject and liable to in case such offence had been committed, and were inquired of, tried, heard, determined, and adjudged, in *England*, any law, statute, or usage to the contrary notwithstanding.

Provision for the trial of murder and manslaughter, where the death only happens in the colony or upon the sea.

III. And be it enacted, that where any person shall die in any colony of any stroke, poisoning, or hurt, such person having been feloniously stricken, poisoned, or hurt upon the sea, or in any haven, river, creek, or place where the Admiral or Admirals have power, authority, or jurisdiction, or at any place out of such colony, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished in such colony in the same manner in all respects as if such offence had been wholly committed in that colony; and that if any person in any colony shall be charged with any such offence as aforesaid in respect of the death of any person who, having been feloniously stricken, poisoned, or otherwise hurt, shall have died of such stroke, poisoning, or hurt upon the sea, or in any haven, river, creek, or place where the Admiral or Admirals have power, authority, or jurisdiction, such offence shall be held for the purpose of this Act to have been wholly committed upon the sea.

Jurisdiction of the Supreme Courts of New South Wales and Vandiemen's land preserved.
9 G. 4, c. 83.

IV. Provided also, and be it enacted, that nothing in this Act contained shall in any way affect or abridge the jurisdiction of the Supreme Courts of *New South Wales* and *Vandiemen's land*, as established by an Act passed in the ninth year of the reign of King *George* the Fourth, intituled an Act to provide for the administration of justice in *New South Wales* and *Vandiemen's land* and for the more effectual government thereof, and for other purposes relating thereto.

Interpretation of terms.

V. And be it enacted, that for the purposes of this Act the word "colony" shall mean any island, plantation, colony, dominion, fort, or factory of Her Majesty, except any island within the United Kingdom, and the islands of *Man*, *Guernsey*, *Jersey*, *Alderney*, and *Sark*, and the islands adjacent thereto respectively, and except also all such parts and places as are under the government of the *East India* Company; and the word "Governor" shall mean the officer for the time being administering the government of any colony.

Act may be amended, &c.

VI. And be it enacted, that this Act may be amended or repealed by any Act to be passed during this present Session of Parliament.

23 & 24 VICTORIÆ, CAP. C.

An Act *to repeal so much of the Act of the twenty-second and twenty-third Victoriæ, Chapter twenty-seven, and of certain other Acts, as authorizes the Secretary of State in Council to give directions for raising European forces for the Indian Army of Her Majesty.*

[20*th August* 1860.]

Whereas it is not expedient that a separate *European* force should be continued for the local service of Her Majesty in *India*: Be it enacted &c. Preamble.

I. So much of the Act of Parliament of the twenty-second and twenty-third years of Her Majesty, Chapter twenty-seven, intituled an Act to repeal the thirty-first Section of sixteenth and seventeenth *Victoria*, Chapter ninety-five, and to alter the limit of the number of *European* Troops to be maintained for local service in *India*, and of any former Act or Acts of Parliament, as renders it lawful for the Secretary of State in Council from time to time to give such directions as he may think fit for raising such number of *European* forces as he may judge necessary for the *Indian* Army of Her Majesty, is hereby repealed: Provided always, that the same or equal provision for the sons of persons who have served in *India*, and the advantages as to pay, pensions, allowances, privileges, promotion, and otherwise, secured to the military forces of the *East India* Company by the Act of the twenty-first and twenty-second years of the Queen, Chapter one hundred and six, Sections thirty-five, fifty-six, and fifty-eight, respectively, shall be maintained in any plan for the re-organization of the *Indian* Army, anything in this Act contained notwithstanding.

So much of 22 & 23 Vic., c 27 and of certain other Acts as authorizes the Secretary of State in Council to give directions for raising European forces for the Indian Army of Her Majesty, repealed.

Provision as to certain persons who have served in India.

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23 & 24 VICTORIÆ, CAP. CXXII.

An Act *to enable the legislatures of Her Majesty's possessions abroad to make enactments similar to the enactment of the Act ninth George the Fourth, Chapter thirty-one, Section eight.*

[28*th August* 1860.]

Whereas by an Act passed in the ninth year of His late Majesty *George* the Fourth, intituled an Act for consolidating and amending the statutes in *England* relating to offences against the person, it was enacted (amongst other things), that where any person, being feloniously stricken, poisoned, or otherwise hurt at any place in *England*, should die of such stroke, poisoning, or hurt upon the sea or at any place out of *England*, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, might be dealt with, inquired for, tried, determined, and punished in the country or place in *England* in which such stroke, poisoning, or hurt should happen, in the same manner in all respects as if such offence had been wholly committed in that country or place: And whereas it may be desirable that provisions similar or analogous to the above-recited provisions should be made with respect to offences committed within Her Majesty's possessions abroad: And whereas doubts Preamble. 9 G. 4, c. 31.

are entertained whether it is competent to the legislature of any such possession to make such provision: Be it therefore enacted &c.

Legislatures of possessions abroad empowered to make ordinances enacting to the like effect as in provisions of Sec. 8 of 9 G. 4., c. 31.

I. It shall be lawful for the legislature of any of Her Majesty's possessions abroad to enact by any law or ordinance, to be by them made in the usual manner, that where any person, being feloniously stricken, poisoned, or otherwise hurt at any place within the limits of such possession, shall die of such stroke, poisoning, or hurt upon the sea or at any place out of the limits of such possession, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished in the possession within the limits of which such stroke, poisoning, or hurt shall happen, in the same manner in all respects as if such offence had been wholly committed within the limits of such possession, or such legislature may enact, by any such law or ordinance to be made as aforesaid, to the like effect.

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23 & 24 VICTORIÆ, CAP. CXXX.

An Act *to enable the Secretary of State in Council of India to raise money in the United Kingdom for the service of the Government of India.*

[28*th August* 1860.]

Preamble.

Whereas the exigencies of the public service in *India* require that the Secretary of State in Council of *India* should be enabled to raise money in the United Kingdom on the credit of the revenues of *India*: Be it therefore enacted &c.

Power to the Secretary of State in Council of India to raise any sum not exceeding three millions.

I. It shall be lawful for the Secretary of State in Council of *India*, at any time or times before the thirtieth day of *April* one thousand eight hundred and sixty-one, or, if Parliament be then sitting, before the end of the then Session of Parliament, to raise in the United Kingdom, for the service of the Government of *India*, any sum or sums of money not exceeding in the whole three millions, and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such modes and partly by another or others.

Bonds may be issued under the hands of two members of the Council, countersigned by Secretary of State or one Under Secretary.

II. All bonds issued under the authority of this Act may be issued under the hands of two members of the Council of *India*, and countersigned by the Secretary of State for *India* or one of his Under Secretaries, or his Assistant Under Secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest, as the said Secretary of State in Council may think fit.

Debentures may be issued.

III. All debentures issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts, and at such rate or rates of interest, as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council.

As to payment of principal and interest on debentures.

IV. All debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively; and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein; and the principal monies and interest secured by such debentures shall be payable either at the treasury of the Secretary of State in Council in *London* or at the Bank of *England*.

Debentures transferable by delivery or deed;

Coupons by delivery.

V. All or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest moneys secured thereby, shall be transferable either by the delivery of such debentures respectively, or, at the discretion of the Secretary of State in Council, by deed; provided that the coupons for interest annexed to any debenture issued under the authority of this Act shall pass by delivery.

Capital stock and annuities may be created and issued.

VI. Any capital stock created under the authority of this Act shall bear such a rate of interest, and any annuities to be created under the authority of this Act shall be at such rate *per centum per annum*, as the Secretary of State in Council may think fit; and such capital stock and such annuities may be issued on such terms as may be determined by the Secretary of State in Council; and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock; and such annuities may be terminable at such period as the Secretary of State in Council may prescribe previously to the issue of such annuities.

Transfer books of such capital stock and annuities to be kept.

VII. In case of the creation and issue of any such capital stock or of any such annuities, there shall be kept, either at the office of the Secretary of State in Council in *London* or at the Bank of *England*, books wherein entries shall be made of the said capital stock and annuities respectively, and wherein all assignments or transfers of the same respectively, or any part thereof respectively, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attorneys thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses; and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof; and no other mode of assigning or transferring the said capital stock or the said annuities, or any part thereof respectively, or any interest therein respectively, shall be good and available in law, and no stamp-duties whatsoever shall be charged on the said transfers or any of them.

Annuities personal estate.

VIII. All annuities created and issued under the authority of this Act shall be deemed and taken to be personal and not real estate, and shall go to the executors or administrators of the person or persons dying possessed thereof, interested therein, or entitled thereto, and not to the heir-at-law, nor be liable to any foreign attachment by the custom of *London*, or otherwise.

The whole amount charged on revenue

IX. The whole amount of the principal moneys to be charged on the revenues of *India* under this Act shall not exceed three millions; and no money shall be raised or secured

of India not to exceed three millions.

under the authority of this Act after the said thirtieth day of *April* one thousand eight hundred and sixty-one, or, if Parliament be then sitting, after the end of the then Session of Parliament, save for or upon the re-payment of principal moneys previously secured under this Act as hereinafter provided.

Power to raise money for payment of principal money.

X. Upon or for the re-payment of any principal money secured under the authority of this Act, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Act may require to be repaid, but the amount to be charged upon the revenues of *India* shall not in any case exceed the principal money required to be repaid.

Securities, &c., to be charged on revenues of India.

XI. All bonds and debentures to be issued under this Act, and the principal moneys and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, and all annuities to be issued under this Act, shall be charged on and payable out of the revenues of *India*, in like manner as other liabilities incurred on account of the Government of the said territories.

Provisions as to composition for stamp-duties on India bonds extended to bonds and debentures under this Act.

XII. The provisions contained in Section four of the Act of the Session holden in the fifth and sixth years of King *William* the Fourth, Chapter sixty-four, with respect to the composition and agreement for the payment by the *East India* Company of an annual sum in lieu of stamp-duties on their bonds, and the exemption of their bonds from stamp-duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto.

Forgery of debentures to be punishable as forgery of East India bonds.

XIII. All provisions now in force in anywise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any *East India* bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority.

Returns to be annually prepared of moneys raised on loan, &c., and presented to Parliament.

XIV. Provided always, that on or before the first day of *February* in each year the said Secretary of State in Council shall prepare or cause to be prepared a return of all moneys raised on loan under the provisions of this Act; also a return of all stocks, loans, debts, and liabilities then chargeable on the revenues of *India*, at home and abroad, up to the latest period of time to which such return can be made out: That all such returns shall be presented to both Houses of Parliament on or before the first day of *February* in each year, if Parliament is then sitting, and if Parliament is not sitting, then such returns shall be presented within ten days of the first meeting of Parliament after the first day of *February* in each year.

Saving powers of the Secretary of State in Council.

XV. This Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof.

24 VICTORIÆ, CAP. IV.

An Act *for amending the Red Sea and India Telegraph Act*, 1859.

[22*nd March* 1861.]

Preamble.

Whereas in the year one thousand eight hundred and fifty-eight a Joint Stock Company was incorporated, under the Joint Stock Companies' Act, 1856, by the name of "The *Red Sea* and *India* Telegraph Company, Limited," for the purpose of establishing telegraphic communication between *England* and *India* by the *Red Sea:* And whereas by an indenture of agreement, dated the eighteenth day of *November* one thousand eight hundred and fifty-eight, and made between the Right Honourable *Edward Geoffrey*, Earl of *Derby*, and the Right Honourable *Benjamin D'Israeli*, two of the Lords Commissioners of Her Majesty's Treasury, of the one part, and the said Company of the other part, it was, amongst other things, provided as follows: "That the Lords Commissioners of Her Majesty's Treasury shall guarantee to the Company (subject to such confirmation by Act of Parliament as hereinafter-mentioned) that during the period of fifty years from the fourth day of *August* in the year of our Lord one thousand eight hundred and fifty-eight, the net receipts available for dividends upon each half-yearly statement of accounts, after payment of working expenses, as hereinafter-mentioned, shall be equal to interest or dividend at the rate of four and a half *per centum per annum* at the least upon the amount of the capital for the time being *bonâ fide* called and paid up for the purpose of the Company's undertaking, not exceeding in any case, except as hereinafter-mentioned, the sum of eight hundred thousand pounds, and shall, if and so often as during the said period of fifty years upon any half-yearly statement of accounts the net receipts available for dividend after the payment of working expenses shall not be equal to interest or dividend at the rate of two and a quarter *per centum* for the half-year upon the above-mentioned amount of capital, pay and make good such deficiency to the Company: Provided always, that in the calculation of the amount to which the Company are entitled upon this guarantee all capital paid up in the course of the current half-year shall be taken to be entitled to interest or dividend at the above-mentioned rate only from the time when the same was so paid up; provided also, that all amounts paid by the Lords Commissioners under this guarantee shall be a charge upon the Company, to be repaid out of future surplus profits, as hereinafter provided:" And whereas the said Company was afterwards incorporated by the *Red Sea* and *India* Telegraph Act, 1859, and the said indenture of agreement was by the said Act confirmed: And whereas doubts are entertained whether the said agreement empowers the said Commissioners to give effect to such guarantee, except during such time as the line of Telegraph of the Company is in working order: And whereas it is expedient that such doubts should be removed: Be it enacted &c.

Construction of agreement.

I. It is hereby declared, that the guarantee contained in the said agreement was not intended to be and is not conditional on the line of Telegraph of the Company being in working order.

Acts to be construed together.

II. This Act and the *Red Sea* and *India* Telegraph Act, 1859, shall be construed together as one Act.

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24 VICTORIÆ, CAP. XI.

AN ACT *to afford facilities for the better ascertainment of the law of Foreign Countries when pleaded in Courts within Her Majesty's dominions.*

[17*th May* 1861.]

Preamble. 22 & 23 Vic., c. 63.

WHEREAS an Act was passed in the twenty-second and twenty-third years of Her Majesty's reign, intituled an Act to afford facilities for the more certain ascertainment of the law administered in one part of Her Majesty's dominions when pleaded in the Courts of another part thereof: And whereas it is expedient to afford the like facilities for the better ascertainment, in similar circumstances, of the law of any foreign country or State with the Government of which Her Majesty may be pleased to enter into a convention for the purpose of mutually ascertaining the law of such foreign country or State when pleaded in actions depending in any Courts within Her Majesty's dominions and the law as administered in any part of Her Majesty's dominions when pleaded in actions depending in the Courts of such foreign country or State: Be it therefore enacted &c.

Superior Courts within Her Majesty's dominions may remit a case, with queries, to a Court of any foreign State with which Her Majesty may have made a convention for that purpose, for ascertainment of law of such State.

I. If, in any action depending in any of the Superior Courts within Her Majesty's dominions it shall be the opinion of such Court that it is necessary or expedient, for the disposal of such action, to ascertain the law applicable to the facts of the case as administered in any foreign State or country with the Government of which Her Majesty shall have entered into such convention as aforesaid, it shall be competent to the Court in which such action may depend to direct a case to be prepared setting forth the facts as these may be ascertained by verdict of jury or other mode competent, or as may be agreed upon by the parties, or settled by such person or persons as may have been appointed by the Court for that purpose in the event of the parties not agreeing; and upon such case being approved of by such Court or a Judge thereof, such Court or Judge shall settle the questions of law arising out of the same on which they desire to have the opinion of another Court, and shall pronounce an order remitting the same, together with the case, to such Superior Court in such foreign State or country as shall be agreed upon in said convention, whose opinion is desired upon the law administered by such foreign Court as applicable to the facts set forth in such case, and requesting them to pronounce their opinion on the questions submitted to them; and upon such opinion being pronounced, a copy thereof, certified by an officer of such Court, shall be deemed and held to contain a correct record of such opinion.

Court in which action depends to apply such opinion to the facts set forth in cases, &c.

II. It shall be competent to any of the parties to the action, after having obtained such certified copy of such opinion, to lodge the same with the officer of the Court within Her Majesty's dominions in which the action may be depending who may have the official charge thereof, together with a notice of motion setting forth that the party will, on

a certain day named in such notice, move the Court to apply the opinion contained in such certified copy thereof to the facts set forth in the case hereinbefore specified, and the said Court shall thereupon, if it shall see fit, apply such opinion to such facts, in the same manner as if the same had been pronounced by such Court itself upon a case reserved for opinion of the Court, or upon special verdict of a jury; or the said last-mentioned Court shall, if it think fit, when the said opinion has been obtained before trial, order such opinion to be submitted to the jury with the other facts of the case as conclusive evidence of the foreign law therein stated, and the said opinion shall be so submitted to the jury: Provided always, that if after having obtained such certified copy the Court shall not be satisfied that the facts had been properly understood by the foreign Court to which the case was remitted, or shall on any ground whatsoever be doubtful whether the opinion so certified does correctly represent the foreign law as regards the facts to which it is to be applied, it shall be lawful for such Court to remit the said case, either with or without alterations or amendments, to the same or to any other such Superior Court in such foreign State as aforesaid and so from time to time as may be necessary or expedient.

Courts in Her Majesty's dominions may pronounce opinion on case remitted by a foreign Court.

III. If, in any action depending in any Court of a foreign country or State with whose Government Her Majesty shall have entered into a convention as above set forth, such Court shall deem it expedient to ascertain the law applicable to the facts of the case as administered in any part of Her Majesty's dominions, and if the foreign Court in which such action may depend shall remit to the Court in Her Majesty's dominions whose opinion is desired a case setting forth the facts and the questions of law arising out of the same on which they desire to have the opinion of a Court within Her Majesty's dominions, it shall be competent to any of the parties to the action to present a petition to such last-mentioned Court, whose opinion is to be obtained, praying such Court to hear parties or their Counsel, and to pronounce their opinion thereon in terms of this Act, or to pronounce their opinion without hearing parties or Counsel; and the Court to which such petition shall be presented shall consider the same, and, if they think fit, shall appoint an early day for hearing parties or their Counsel on such case, and shall pronounce the opinion upon the questions of law as administered by them which are submitted to them by the foreign Court; and in order to their pronouncing such opinion they shall be entitled to take such further procedure thereupon as to them shall seem proper, and upon such opinion being pronounced a copy thereof, certified by an officer of such Court, shall be given to each of the parties to the action by whom the same shall be required.

Interpretation of terms.

IV. In the construction of this Act the word "action" shall include every judicial proceeding instituted in any Court, civil, criminal, or ecclesiastical; and the words "Superior Courts" shall include, in *England*, the Superior Courts of Law at *Westminster*, the Lord Chancellor, the Lords Justices, the Master of the Rolls, or any Vice-Chancellor, the Judge of the Court of Admiralty, the Judge Ordinary of the Court for Divorce and Matrimonial causes, and the Judge of the Court of Probate; in *Scotland*, the High Court of Justiciary, and the Court of Session, acting by either of its divisions; in *Ireland*, the Superior Courts of Law at *Dublin*, the Master of the Rolls, and the Judge of the Admiralty

Court; and in any other part of Her Majesty's dominions, the Superior Courts of Law or Equity therein; and in a foreign country or State, any Superior Court or Courts which shall be set forth in any such convention between Her Majesty and the Government of such foreign country or State.

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24 & 25 VICTORIÆ, CAP. XXV.

AN ACT *to enable the Secretary of State in Council of India to raise money in the United Kingdom for the service of the Government of India.*

[28*th June* 1861.]

Preamble.

WHEREAS the exigencies of the public service in *India* require that the Secretary of State in Council of *India* should be enabled to raise money in the United Kingdom on the credit of the revenues of *India*: Be it therefore enacted &c.

Power to the Secretary of State in Council of India to raise any sum not exceeding four millions.

I. It shall be lawful for the Secretary of State in Council of *India*, at any time or times before the thirtieth day of *April* one thousand eight hundred and sixty-two, or, if Parliament be then sitting, before the end of the then Session of Parliament, to raise in the United Kingdom, for the service of the Government of *India*, any sum or sums of money not exceeding in the whole four millions, and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such modes and partly by another or others.

Bonds may be issued under hands of members of Council, countersigned by Secretary or Under Secretary.

II. All bonds issued under the authority of this Act may be issued under the hands of two members of the Council of *India*, and countersigned by the Secretary of State for *India* or one of his Under Secretaries, or his Assistant Under Secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest as the said Secretary of State in Council may think fit.

Debentures may be issued.

III. All debentures issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts, and at such rate or rates of interest, as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council.

As to payment of principal and interest on debentures.

IV. All debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively; and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein; and the principal moneys and interest secured by such debentures shall be payable either at the treasury of the Secretary of State in Council in *London* or at the Bank of *England*.

Debentures transferable by delivery or deed;

V. All or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest moneys secured thereby, shall be transferable either by the delivery of such debentures respectively, or, at the discretion

of the Secretary of State in Council, by deed; provided that the coupons for interest annexed to any debenture issued under the authority of this Act shall pass by delivery. Coupons by delivery.

VI. Any capital stock created under the authority of this Act shall bear such a rate of interest, and any annuities to be created under the authority of this Act shall be at such rate *per centum per annum*, as the Secretary of State in Council may think fit; and such capital stock and such annuities may be issued on such terms as may be determined by the Secretary of State in Council; and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock; and such annuities may be terminable at such period as the Secretary of State in Council may prescribe previously to the issue of such annuities. Capital stock and annuities may be created and issued.

VII. In case of the creation and issue of any such capital stock or of any such annuities, there shall be kept, either at the office of the Secretary of State in Council in *London* or at the Bank of *England*, books wherein entries shall be made of the said capital stock and annuities respectively, and wherein all assignments or transfers of the same respectively, or any part thereof respectively, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attornies thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses; and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof; and no other mode of assigning or transferring the said capital stock or the said annuities, or any part thereof respectively, or any interest therein respectively, shall be good and available in law, and no stamp-duties whatsoever shall be charged on the said transfers or any of them. Transfer books of such capital stock and annuities to be kept.

VIII. All annuities created and issued under the authority of this Act shall be deemed and taken to be personal and not real estate, and shall go to the executors or administrators of the person or persons dying possessed thereof, interested therein, or entitled thereto, and not to the heir-at-law, nor be liable to any foreign attachment by the custom of *London*, or otherwise. Annuities personal estate.

IX. The whole amount of the principal moneys to be charged on the revenues of *India* under this Act shall not exceed four millions; and no money shall be raised or secured under the authority of this Act after the said thirtieth day of *April* one thousand eight hundred and sixty-two, or, if Parliament be then sitting, after the end of the then Session of Parliament, save for or upon the re-payment of principal moneys previously secured under this Act as hereinafter provided. The whole amount charged on revenue of India not to exceed four millions.

X. Upon or for the re-payment of any principal money secured under the authority of this Act, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Power to raise money for payment of principal money.

Act may require to be repaid, but the amount to be charged upon the revenues of *India* shall not in any case exceed the principal money required to be repaid.

Securities, &c., to be charged on revenues of India.

XI. All bonds and debentures to be issued under this Act, and the principal moneys and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, and all annuities to be issued under this Act, shall be charged on and payable out of the revenues of *India*, in like manner as other liabilities incurred on account of the Government of the said territories.

Provisions as to composition for stamp-duties on India bonds extended to bonds and debentures under this Act.

XII. The provisions contained in Section four of the Act of the Session holden in the fifth and sixth years of King *William* the Fourth, Chapter sixty-four, with respect to the composition and agreement for the payment by the *East India* Company of an annual sum in lieu of stamp-duties on their bonds, and the exemption of their bonds from stamp-duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto.

Forgery of debentures to be punishable as forgery of East India bonds.

XIII. All provisions now in force in anywise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any *East India* bond, with intent to defraud, shall extend and be applicable to and in respect of any debenture issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority.

Returns to be annually prepared of moneys raised on loan, &c., and presented to Parliament.

XIV. Provided always, that on or before the first day of *February* in each year, the said Secretary of State in Council shall prepare or cause to be prepared a return of all moneys raised on loan under the provisions of this Act; also a return of all stocks, loans, debts, and liabilities then chargeable on the revenues of *India*, at home and abroad, up to the latest period of time to which such return can be made out: That all such returns shall be presented to both Houses of Parliament on or before the first day of *February* in each year, if Parliament is then sitting, and if Parliament is not sitting, then such returns shall be presented within ten days of the first meeting of Parliament after the first day of *February* in each year.

Saving powers of the Secretary of State in Council.

XV. This Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof.

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24 & 25 VICTORIÆ, CAP. LIV.

AN ACT *to confirm certain appointments in India, and to amend the law concerning the Civil Service there.*

[1*st August* 1861].

Preamble. 33 G. 3, c. 52.

WHEREAS by Section fifty-six of an Act of the thirty-third year of King *George* the Third, Chapter fifty-two, it was enacted that all the Civil Servants of the *East India* Company in *India* under the rank or degree of members of Council should have and be en-

titled to precedence in the service of the said Company at their respective stations according to their seniority of appointment, and that no such Civil Servant should be capable of being advanced or promoted to any higher station, rank, or degree therein than he should be entitled to according to the length of his service; and by Section fifty-seven of the same Act it was enacted that all vacancies happening in any of the offices, places, or employments in the civil line of the Company's service in *India* (being under the degree of Counsellor) should be from time to time filled up and supplied from amongst the Civil Servants of the said Company belonging to the Presidency wherein such vacancies should respectively happen: And whereas by reason of the exigencies of the public service vacancies in certain offices, places, and employments in *India* have been filled up by the appointment of persons not being Civil Servants, or not being Civil Servants belonging to the Presidency wherein the vacancies have happened, and otherwise not in accordance with the provisions of the said enactments, and it is expedient that such appointments should be rendered valid, and also that the authorities in *India* should be empowered to make such appointments in like cases in future: Be it enacted &c.

Appointments not in accordance with 33 G. 3, c. 52 valid.

I. All appointments made by the authorities in *India* to any such offices, places, or employments shall be and be deemed to have been as valid and effectual as if the Act hereinbefore recited or referred to had not been passed.

Vacancies in offices to be supplied by covenanted Civil Servants.

II. All vacancies happening in any of the offices, places, or employments specified in the Schedule annexed to this Act, and all such offices which may be created hereafter, shall be filled up and supplied, except as hereinafter provided, from amongst the covenanted Civil Servants of the Crown in *India*.

Persons not covenanted Civil Servants may, under special circumstances, be appointed to such offices, subject to certain restrictions.

III. Where it appears to the authority in *India* by whom an appointment should be made to any office, place, or employment specified in the said Schedule, that such appointment, under the special circumstances of the case, should be made without regard to the recited qualifications, conditions, and restrictions of the said Act, it shall be lawful for such authority to make such appointment accordingly; provided that no person shall be so appointed who has not resided for at least seven years in *India*, and that every person previously to his being so appointed to any of the offices in the revenue and judicial departments specified in the said Schedule shall pass an examination in the vernacular language of the district in which he is to be employed, where such examination is now required, and shall be subject to all the departmental tests and other qualifications and restrictions which are or may be imposed in the like case on covenanted Civil Servants.

Such appointment in each case to be reported to the Secretary of State.

IV. Every such appointment shall be provisional only, and shall forthwith be reported to the Secretary of State in Council of *India*, together with the special reasons for making the same; and unless the Secretary of State in Council shall approve such appointment, with the concurrence of a majority of members present at a meeting, and shall within twelve months from the date of such appointment notify such approval to the authority by whom the appointment was made, then such appointment shall be cancelled.

LIBRARY

Certain offices may be filled up without regard to restrictions prescribed by recited Act.

V. All vacancies happening in any other offices, places, or employments than those mentioned in the said Schedule, and all other offices than those so mentioned that may hereafter be created in *India*, may be filled up and supplied without regard to the qualifications, conditions, and restrictions prescribed by the said Act.

Act not to apply to office of Lieutenant Governor, &c.

VI. Provided always, that this Act shall not apply to the office of Lieutenant-Governor of any part of Her Majesty's dominions in *India*, or to any offices for the supply of which provision may be made by any other Act of the present Session of Parliament.

So much of 33 G. 3, c. 52 as requires seniority, &c., for appointments repealed.

VII. Section fifty-six of the said Act of the thirty-third year of King *George* the Third, and so much of the other Sections of the said Act and of any other Act now in force as requires seniority as a condition or qualification for the appointment of Civil Servants to offices, places, or employments, shall be repealed.

SCHEDULE.

Secretaries, Junior Secretaries, and Under Secretaries to the several Governments in India, except the Secretaries, Junior Secretaries, and Under Secretaries in the Military, Marine, and Public Works Departments.

Accountant General.

Civil Auditor.

Sub-Treasurer.

Judicial.

1. Civil and Session Judges, or Chief Judicial Officers of Districts in the Provinces now known as Regulation Provinces.

2. Additional and Assistant Judges in the said Provinces.

3. Magistrates or Chief Magisterial Officers of Districts in the said Provinces.

4. Joint Magistrates in the said Provinces.

5. Assistant Magistrates or Assistants to Magistrates in the said Provinces.

Revenue.

1. Members of the Board of Revenue in the Presidencies of Bengal and Madras.

2. Secretaries to the said Boards of Revenue.

3. Commissioners of Revenue or Chief Revenue Officers of Divisions in the Provinces now known as Regulation Provinces.

4. Collectors of Revenue or Chief Revenue Officers of Districts in the said Provinces.

5. Deputy or Subordinate Collectors where combined with the office of Joint Magistrate in the said Provinces.

6. Assistant Collectors or Assistants to Collectors in the said Provinces.

7. Salt Agents.

8. Controller of Salt Chowkies.

9. Commissioners of Customs, Salt, and Opium.

10. Opium Agents.

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24 & 25 VICTORIÆ, CAP. LXVII.

AN ACT *to make better provision for the constitution of the Council of the Governor General of India, and for the local government of the several Presidencies and Provinces of India, and for the temporary government of India in the event of a vacancy in the office of Governor General.*

[1*st August* 1861.]

[Amended by 28 Vic., cap. 17.]

Preamble.

WHEREAS it is expedient that the provisions of former Acts of Parliament respecting the constitution and functions of the Council of the Governor General of *India* should be consolidated and in certain respects amended, and that power should be given to the Governors in Councilof the Presidencies of *Fort Saint George* and *Bombay* to make laws and regulations for the government of the said Presidencies, and that provision should be made for constituting the like authority in other parts of Her Majesty's *Indian* dominions: Be it therefore enacted &c.

Short title.

I. This Act may be cited for all purposes as "The *Indian* Councils Act, 1861."

Acts and parts of Acts repealed.

II. Sections forty, forty-three, forty-four, fifty, sixty-six, seventy, and so much of Sections sixty-one and sixty-four as relates to vacancies in the office of ordinary member of the Council of *India*, of the Act of the third and fourth years of King *William* the Fourth, Chapter eighty-five, for effecting an arrangement with the *East India* Company, and for the better government of Her Majesty's *Indian* territories, till the thirtieth day of *April* one thousand eight hundred and fifty-four, Sections twenty-two, twenty-three, twenty-four, and twenty-six of the Act of the sixteenth and seventeenth years of Her Majesty, Chapter ninety-five, "to provide for the government of *India*," and the Act of the twenty-third and twenty-fourth years of Her Majesty, Chapter eighty-seven, "to remove doubts as to the authority of the senior member of the Council of the Governor General of *India* in the absence of the President," are hereby repealed, and all other enactments whatsoever now in force with relation to the Council of the Governor General of *India*, or to the Councils of the Governors of the respective Presidencies of *Fort Saint George* and *Bombay*, shall, save so far as the same are altered by or are repugnant to this Act, continue in force, and be applicable to the Council of the Governor General of *India* and the Councils of the respective Presidencies under this Act.

Composition of the Council of the Governor General of India.

III. There shall be five ordinary members of the said Council of the Governor General, three of whom shall from time to time be appointed by the Secretary of State for *India* in Council, with the concurrence of a majority of members present at a meeting, from among such persons as shall have been, at the time of such appointment in the ser-

vice in *India* of the Crown, or of the Company and the Crown, for at least ten years, and if the person so appointed shall be in the military service of the Crown he shall not, during his continuance in office as a member of Council, hold any military command, or be employed in actual military duties, and the remaining two, one of whom shall be a barrister or a member of the Faculty of Advocates in *Scotland* of not less than five years' standing, shall be appointed from time to time by Her Majesty by warrant under Her royal sign manual; and it shall be lawful for the Secretary of State in Council to appoint the Commander-in-Chief of Her Majesty's forces in *India* to be an extraordinary member of the said Council, and such extraordinary member of Council shall have rank and precedence at the Council Board next after the Governor General.

Present members of Council to continue.

IV. The present ordinary members of the Council of the Governor General of *India* shall continue to be ordinary members under and for the purposes of this Act; and it shall be lawful for Her Majesty, on the passing of this Act, to appoint by warrant as aforesaid an ordinary member of Council, to complete the number of five hereby established; and there shall be paid to such ordinary member, and to all other ordinary members who may be hereafter appointed, such amount of salary as may from time to time be fixed for members of the Council of the Governor General by the Secretary of State in Council, with the concurrence of a majority of members of Council present at a meeting; and all enactments of any Act of Parliament or law of *India* respecting the Council of the Governor General of *India* and the members thereof shall be held to apply to the said Council as constituted by this Act, except so far as they are repealed by or are repugnant to any provisions of this Act.

Power of making provisional appointments of members of Council by Secretary of State.

V. It shall be lawful for the Secretary of State in Council, with the concurrence of a majority of members present at a meeting, and for Her Majesty, by warrant as aforesaid, respectively, to appoint any person provisionally to succeed to the office of ordinary member of the Council of the Governor General, when the same shall become vacant by the death or resignation of the person holding the said office, or on his departure from *India* with intent to return to *Europe*, or on any event and contingency expressed in any such provisional appointment, and such appointment again to revoke; but no person so appointed to succeed provisionally to such office shall be entitled to any authority, salary, or emolument appertaining thereto until he shall be in the actual possession of such office.

Provision on absence of Governor General in other parts of India.

VI. Whenever the said Governor General in Council shall declare that it is expedient that the said Governor General should visit any part of *India* unaccompanied by his Council, it shall be lawful for the said Governor General in Council, previously to the departure of the said Governor General, to nominate some member of the said Council to be President of the said Council, in whom, during the time of such visit, the powers of the said Governor General in assemblies of the said Council shall be reposed, except that of assenting to or withholding his assent from, or reserving for the signification of Her Majesty's pleasure, any law or regulation, as hereinafter provided; and it shall be lawful in every such case for the said Governor General in Council, by an order for that purpose

to be made, to authorize the Governor General alone to exercise all or any of the powers which might be exercised by the said Governor General in Council in every case in which the said Governor General may think it expedient to exercise the same, except the power of making laws or regulations.

Provision on absence of Governor General from meeting.

VII. Whenever the Governor General, or such President so nominated as aforesaid, shall be obliged to absent himself from any meeting of Council (other than meetings for the purpose of making laws and regulations, as hereinafter provided), owing to indisposition or any other cause whatsoever, and shall signify his intended absence to the Council, then and in every such case the senior member for the time being who shall be present at such meeting shall preside thereat, in such manner, and with such full powers and authorities during the time of such meeting, as such Governor General or President would have had in case he had been present at such meeting: Provided always, that no Act of Council made at any such meeting shall be valid to any effect whatsoever unless the same shall be signed by such Governor General or President respectively, if such Governor General or President shall at the time be resident at the place at which such meeting shall be assembled, and shall not be prevented by such indisposition from signing the same: Provided always, that in case such Governor General or President, not being so prevented as aforesaid, shall decline or refuse to sign such Act of Council, he, and the several members of Council who shall have signed the same, shall mutually exchange with and communicate in writing to each other the grounds and reasons of their respective opinions, in like manner and subject to such regulations and ultimate responsibility as are by an Act of the thirty-third year of King *George* the Third, Chapter fifty-two, Sections forty-seven, forty-eight, forty-nine, fifty, and fifty-one, provided and described in cases where such Governor General shall, when present, dissent from any measure proposed or agitated in the Council.

Power of Governor General to make rules for conduct of business.

VIII. It shall be lawful for the Governor General from time to time to make rules and orders for the more convenient transaction of business in the said Council; and any order made or act done in accordance with such rules and orders (except as hereafter provided respecting laws and regulations) shall be deemed to be the order or act of the Governor General in Council.

Power to Council to assemble at any place in India.

IX. The said Council shall from time to time assemble at such place or places as shall be appointed by the Governor General in Council, within the territories of *India*; and as often as the said Council shall assemble within either of the Presidencies of *Fort Saint George* or *Bombay*, the Governor of such Presidency shall act as an extraordinary member of Council; and as often as the said Council shall assemble within any other division, province, or territory having a Lieutenant Governor, such Lieutenant Governor shall act as an additional Councillor at meetings of the Council, for the purpose of making laws and regulations only, in manner hereinafter provided.

Additional members to be summoned for the purpose of

X. For the better exercise of the power of making laws and regulations vested in the Governor General in Council, the Governor General shall nominate, in addition to

making laws and regulations.

and the ordinary and extraordinary members above-mentioned, and to such Lieutenant Governor in the case aforesaid, such persons, not less than six nor more than twelve in number, as to him may seem expedient, to be members of Council for the purpose of making laws and regulations only, and such persons shall not be entitled to sit or vote at any meeting of Council, except at meetings held for such purpose: Provided that not less than one-half of the persons so nominated shall be non-official persons, that is, persons who, at the date of such nomination, shall not be in the civil or military service of the Crown in *India*, and that the seat in Council of any non-official member accepting office under the Crown in *India* shall be vacated on such acceptance.

Additional members to be appointed for two years.

XI. Every additional member of Council so nominated shall be summoned to all meetings held for the purpose of making laws and regulations, for the term of two years from the date of such nomination.

Resignation of additional members.

XII. It shall be lawful for any such additional member of Council to resign his office to the Governor General, and on acceptance of such resignation by the Governor General such office shall become vacant.

Power to fill up vacancy in number of additional members.

XIII. On the event of a vacancy occurring by the death, acceptance of office, or resignation, accepted in manner aforesaid, of any such additional member of Council, it shall be lawful for the Governor General to nominate any person as additional member of Council in his place, who shall exercise the same functions until the termination of the term for which the additional member so dying, accepting office, or resigning was nominated: Provided always, that it shall not be lawful for him by such nomination to diminish the proportion of non-official additional members hereinbefore directed to be nominated.

No law to be invalid by reason of number of non-official members being incomplete

XIV. No law or regulation made by the Governor General in Council, in accordance with the provisions of this Act, shall be deemed invalid by reason only that the proportion of non-official additional members hereby provided was not complete at the date of its introduction to the Council or its enactment.

Senior ordinary member of Council to preside at meetings for making laws and regulations in absence of Governor General, &c.

Quorum.

XV. In the absence of the Governor General and of the President, nominated as aforesaid, the senior ordinary member of the Council present shall preside at meetings of the Council for making laws and regulations; and the power of making laws and regulations vested in the Governor General in Council shall be exercised only at meetings of the said Council at which such Governor General or President, or some ordinary member of Council, and six or more members of the said Council, (including under the term members of the Council such additional members as aforesaid,) shall be present; and in every case of difference of opinion at meetings of the said Council for making laws and regulations where there shall be an equality of voices, the Governor General, or in his absence the President, and in the absence of the Governor General and President such senior ordinary member of Council there presiding, shall have two votes or the casting vote.

Governor General to appoint first meeting for making laws and regulations.

XVI. The Governor General in Council shall, as soon as conveniently may be, appoint a place and time for the first meeting of the said Council of the Governor General for making laws and regulations under this Act, and summon thereto as well the additional Councillors nominated by and under this Act, as the other members of such Council; and until such first meeting the powers now vested in the said Governor General of *India* in Council of making laws and regulations shall and may be exercised in like manner and by the same members as before the passing of this Act.

Power to appoint and adjourn meetings for making laws and regulations.

XVII. It shall be lawful for the Governor General in Council from time to time to appoint all other times and places of meeting of the Council for the purpose of making laws and regulations under the provisions of this Act, and to adjourn, or from time to time to authorize such President, or senior ordinary member of Council in his absence, to adjourn any meeting for the purpose of making laws and regulations from time to time and from place to place.

Governor General to make rules for conduct of business at such meetings.

XVIII. It shall be lawful for the Governor General in Council to make rules for the conduct of business at meetings of the Council for the purpose of making laws and regulations under the provisions of this Act, prior to the first of such meetings, but such rules may be subsequently amended at meetings for the purpose of making laws or regulations, subject to the assent of the Governor General; and such rules shall prescribe the mode of promulgation and authentication of such laws and regulations: Provided always, that it shall be lawful for the Secretary of State in Council to disallow any such rule, and to render it of no effect.

Business to be transacted at such meetings.

XIX. No business shall be transacted at any meeting for the purpose of making laws and regulations, except as last hereinbefore provided, other than the consideration and enactment of measures introduced into the Council for the purpose of such enactment; and it shall not be lawful for any member or additional member to make or for the Council to entertain any motion, unless such motion be for leave to introduce some measure as aforesaid into Council, or have reference to some measure actually introduced thereinto: Provided always, that it shall not be lawful for any member or additional member to introduce, without the previous sanction of the Governor General, any measure affecting,—

1*st.*—The public debt or public revenues of *India*, or by which any charge would be imposed on such revenues:

2*nd.*—The religion or religious rites and usages of any class of Her Majesty's subjects in *India*:

3*rd.*—The discipline or maintenance of any part of Her Majesty's military or naval forces:

4*th.*—The relations of the government with foreign Princes or States.

Assent of Governor General to laws made at such meetings.

XX. When any law or regulation has been made by the Council at a meeting for the purpose of making laws and regulations as aforesaid, it shall be lawful for the

Governor General, whether he shall or shall not have been present in Council at the making thereof, to declare that he assents to the same, or that he withholds his assent from the same, or that he reserves the same for the signification of the pleasure of Her Majesty thereon; and no such law or regulation shall have validity until the Governor General shall have declared his assent to the same, or until (in the case of a law or regulation so reserved as aforesaid) Her Majesty shall have signified Her assent to the same to the Governor General, through the Secretary of State for *India* in Council, and such assent shall have been duly proclaimed by the said Governor General.

Power of the Crown to disallow laws made at such meetings.

XXI. Whenever any such law or regulation has been assented to by the Governor General, he shall transmit to the Secretary of State for *India* an authentic copy thereof; and it shall be lawful for Her Majesty to signify, through the Secretary of State for *India* in Council, Her disallowance of such law; and such disallowance shall make void and annul such law from or after the day on which the Governor General shall make known, by proclamation or by signification to his Council, that he has received the notification of such disallowance by Her Majesty.

Extent of the powers of the Governor General in Council to make laws and regulations at such meetings.

XXII. The Governor General in Council shall have power at meetings for the purpose of making laws and regulations as aforesaid, and subject to the provisions herein contained, to make laws and regulations for repealing, amending, or altering any laws or regulations whatever now in force or hereafter to be in force in the *Indian* territories now under the dominion of Her Majesty, and to make laws and regulations for all persons, whether *British* or Native, foreigners or others, and for all Courts of Justice whatever, and for all places and things whatever within the said territories, and for all servants of the Government of *India* within the dominions of Princes and States in alliance with Her Majesty *(a)*; and the laws and regulations so to be made by the Governor General in Council shall control and supersede any laws and regulations in anywise repugnant thereto which shall have been made prior thereto by the Governors of the Presidencies of *Fort Saint George* and *Bombay* respectively in Council, or the Governor or Lieutenant Governor in Council of any Presidency or other territory for which a Council may be appointed, with power to make laws and regulations, under and by virtue of this Act: Provided always, that the said Governor General in Council shall not have the power of making any laws or regulations which shall repeal or in any way affect any of the provisions of this Act:

Or any of the provisions of the Acts of the third and fourth years of King *William* the Fourth, Chapter eighty-five, and of the sixteenth and seventeenth years of Her Majesty, Chapter ninety-five, and of the seventeenth and eighteenth years of Her Majesty, Chapter seventy-seven, which after the passing of this Act shall remain in force:

Or any provisions of the Act of the twenty-first and twenty-second years of Her Majesty, Chapter one hundred and six, entitled an Act for the better Government of *India*; or of the Act of the twenty-second and twenty-third years of Her Majesty, Chapter forty-one, to amend the same:

(*a*). This power is enlarged by 28 Vic., c. 17, sec. 1—*Ed.*

Or of any Act enabling the Secretary of State in Council to raise money in the United Kingdom for the Government of *India*;

Or of the Acts for punishing mutiny and desertion in Her Majesty's Army or in Her Majesty's *Indian* forces respectively; but subject to the provision contained in the Act of the third and fourth years of King *William* the Fourth, Chapter eighty-five, Section seventy-three, respecting the *Indian* Articles of War:

Or any provisions of any Act passed in this present Session of Parliament, or hereafter to be passed, in anywise affecting Her Majesty's *Indian* territories, or the inhabitants thereof:

Or which may affect the authority of Parliament, or the constitution and rights of the *East India* Company, or any part of the unwritten laws or constitution of the United Kingdom of *Great Britain* and *Ireland*, whereon may depend in any degree the allegiance of any person to the Crown of the United Kingdom, or the sovereignty or dominion of the Crown over any part of the said territories.

Governor General may make ordinances having force of law in cases of urgent necessity.

XXIII. Notwithstanding anything in this Act contained, it shall be lawful for the Governor General, in cases of emergency, to make and promulgate from time to time ordinances for the peace and good government of the said territories or of any part thereof, subject however to the restrictions contained in the last preceding Section; and every such ordinance shall have like force of law with a law or regulation made by the Governor General in Council, as by this Act provided, for the space of not more than six months from its promulgation, unless the disallowance of such ordinance by Her Majesty shall be earlier signified to the Governor General by the Secretary of State for *India* in Council or unless such ordinance shall be controlled or superseded by some law or regulation made by the Governor General in Council at a meeting for the purpose of making laws and regulations as by this Act provided.

No law, &c., invalid by reason of it affecting any prerogative of the Crown.

XXIV. No law or regulation made by the Governor General in Council (subject to the power of disallowance by the Crown, as hereinbefore provided), shall be deemed invalid by reason only that it affects the prerogative of the Crown.

Laws made for the non-regulation provinces declared valid.

XXV. Whereas doubts have been entertained whether the Governor General of *India*, or the Governor General of *India* in Council, had the power of making rules, laws, and regulations for the territories known from time to time as "Non-Regulation Provinces," except at meetings for making laws and regulations in conformity with the provisions of the said Acts of the third and fourth years of King *William* the Fourth, Chapter eighty-five, and of the sixteenth and seventeenth years of Her Majesty, Chapter ninety-five, and whether the Governor, or Governor in Council, or Lieutenant Governor of any Presidency or part of *India*, had such power in respect of any such territories: Be it enacted, that no rule, law, or regulation which prior to the passing of this Act shall have been made by the Governor General, or Governor General in Council, or by any other of the authorities aforesaid, for and in respect of any such non-regulation province,

shall be deemed invalid only by reason of the same not having been made in conformity with the provisions of the said Acts, or of any other Act of Parliament respecting the constitution and powers of the Council of *India* or of the Governor General, or respecting the powers of such Governors, or Governors in Council, or Lieutenant Governors as aforesaid.

Provision for leave of absence to an ordinary member of Council.

XXVI. It shall be lawful for the Governor General in Council, or Governor in Council of either of the Presidencies, as the case may be, to grant to an ordinary member of Council leave of absence, under medical certificate, for a period not exceeding six months; and such member, during his absence, shall retain his office, and shall, on his return and resumption of his duties, receive half his salary for the period of such absence, but if his absence shall exceed six months, his office shall be vacated.

Power of making temporary appointments of members of Council by Governor General or Governor of a Presidency.

XXVII. If any vacancy shall happen in the office of an ordinary member of the Council of the Governor General, or of the Council of either of the Presidencies, when no person provisionally appointed to succeed thereto shall be then present on the spot, then, and on every such occasion, such vacancy shall be supplied by the appointment of the Governor General in Council, or the Governor in Council, as the case may be; and until a successor shall arive the person so nominated shall execute the office to which he shall have been appointed, and shall have all the powers thereof, and shall have and be entitled to the salary and other emoluments and advantages appertaining to the said office during his continuance therein, every such temporary member of Council foregoing all salaries and allowances by him held and enjoyed at the time of his being appointed to such office; and if any ordinary member of the Council of the Governor General, or of the Council of either of the Presidencies, shall, by any infirmity or otherwise, be rendered incapable of acting or of attending to act as such, or if any such member shall be absent on leave, and if any person shall have been provisionally appointed as aforesaid, then the place of such member absent or unable to attend shall be supplied by such person; and if no person provisionally appointed to succeed to the office shall be then on the spot, the Governor General in Council, or Governor in Council, as the case may be, shall appoint some person to be a temporary member of Council, and, until the return of the member so absent or unable to attend, the person so provisionally appointed by the Secretary of State in Council, or so appointed by the Governor General in Council, or Governor in Council, as the case may be, shall execute the office to which he shall have been appointed, and shall have all the powers thereof, and shall receive half the salary of the member of Council whose place he supplies, and also half the salary of his office under the Government of *India*, or the Government of either of the Presidencies, as the case may be, if he hold any such office, the remaining half of such last-named salary being at the disposal of the Government of *India*, or other Government as aforesaid: Provided always, that no person shall be appointed a temporary member of the said Council who might not have been appointed as hereinbefore provided to fill the vacancy supplied by such temporary appointment.

Power to Governors of Fort Saint George and Bombay to make rules for the conduct of business.

XXVIII. It shall be lawful for the Governors of the Presidencies of *Fort Saint George* and *Bombay* respectively from time to time to make rules and orders for the conduct of business in their Councils, and any order made or act done in accordance with such directions

(except as hereinafter provided respecting laws and regulations) shall be deemed to be the order or act of the Governor in Council.

Power to summon additional members to the Council of Fort Saint George and Bombay for the purpose of making laws and regulations.

XXIX. For the better exercise of the power of making laws and regulations hereinafter vested in the Governors of the said Presidencies in Council respectively, each of the said Governors shall, in addition to the members whereof his Council now by law consists, or may consist, termed herein ordinary members, nominate to be additional members the Advocate General of the Presidency or officer acting in that capacity, and such other persons, not less than four or more than eight in number, as to him may seem expedient, to be members of Council, for the purpose of making laws and regulations only, and such members shall not be entitled to sit or vote at any meeting of Council, except at meetings held for such purpose; provided that not less than half of the persons so nominated shall be non-official persons, as hereinbefore described, and that the seat in Council of any non-official member accepting office under the Crown in *India* shall be vacated on such acceptance.

Additional members to be appointed for two years.

XXX. Every additional member of Council so nominated shall be summoned to all meetings held for the purpose of making laws and regulations for the term of two years from the date of such nomination.

Resignation of additional members.

XXXI. It shall be lawful for any such additional member of Council to resign his office to the Governor of the Presidency; and on acceptance of such resignation by the Governor of the Presidency such office shall become vacant.

Power to fill up vacancy in the number of additional members.

XXXII. On the event of a vacancy occurring by the death, acceptance of office, or resignation accepted in manner aforesaid, of any such additional member of Council, it shall be lawful for the Governor of the Presidency to summon any person as additional member of Council in his place, who shall exercise the same functions until the termination of the term for which the additional member so dying, accepting office, or resigning was nominated: Provided always, it shall not be lawful for him by such nomination to diminish the proportion of non-official members hereinbefore directed to be nominated.

No law to be invalid by reason of incompleteness of number of non-official members.

XXXIII. No law or regulation made by any such Governor in Council in accordance with the provisions of this Act shall be deemed invalid by reason only that the proportion of non-official additional members hereby established was not complete at the date of its introduction to the Council or its enactment.

Senior civil ordinary member of Council to preside in absence of Governor of Presidency.

XXXIV. At any meeting of the Council of either of the said Presidencies from which the Governor shall be absent, the senior civil ordinary member of Council present shall preside; and the power of making laws and regulations hereby vested in such Governor in Council shall be exercised only at meetings of such Council at which the Governor or some ordinary member of Council, and four or more members of Council (including under the term members of Council such additional members as aforesaid), shall be present; and in any case of difference of opinion at meetings of any such Council for making laws and regulations, where there shall be an equality of voices, the Governor, or in his absence the senior member then presiding, shall have two votes or the casting vote.

Governor General to fix first meeting of Councils of Presidencies for making laws and regulations.

XXXV. The Governor General in Council shall, as soon as conveniently may be, appoint the time for the first meeting of the Councils of *Fort Saint George* and *Bombay* respectively, for the purpose of making laws and regulations under this Act, and the Governors of the said Presidencies respectively shall summon to such meeting as well the additional Councillors appointed by and under this Act as the ordinary members of the said Councils.

Governors of Presidencies to appoint subsequent meetings, and adjourn them.

XXXVI. It shall be lawful for every such Governor to appoint all subsequent times and places of meeting of his Council for the purpose of making laws and regulations under the provisions of this Act, and to adjourn, or from time to time to authorize such senior ordinary member of Council in his absence to adjourn any meeting for making laws and regulations from time to time and from place to place.

Governors to make rules and orders for conduct of business at such meetings.

XXXVII. Previously to the first of such meetings of their Councils for the purpose of making laws and regulations under the provisions of this Act, the Governors of the said Presidencies in Council respectively shall make rules for the conduct of business at such meetings, subject to the sanction of the Governor General in Council; but such rules may be subsequently amended at meetings for the purpose of making laws and regulations, subject to the assent of the Governor: Provided always, that it shall be lawful for the Governor General in Council to disallow any such rule, and render the same of no effect.

Business to be transacted at such meetings.

XXXVIII. No business shall be transacted at any meeting of the Council of either of the said Presidencies for the purpose of making laws and regulations (except as last hereinbefore provided) other than the consideration and enactment of measures introduced into such Council for the purpose of such enactment; and it shall not be lawful for any member or additional member to make, or for the Council to entertain, any motion, unless such motion shall be for leave to introduce some measure as aforesaid into Council, or have reference to some measure actually introduced thereinto: Provided always, that it shall not be lawful for any member or additional member to introduce, without the previous sanction of the Governor, any measure affecting the public revenues of the Presidency, or by which any charge shall be imposed on such revenues.

Governors to assent to laws and regulations of Presidencies.

XXXIX. When any law or regulation has been made by any such Council at a meeting for the purpose of making laws and regulations as aforesaid, it shall be lawful for the Governor, whether he shall or shall not have been present in Council at such meeting, to declare that he assents to, or withholds his assent from, the same.

Governor General to assent to laws and regulations of Presidencies.

XL. The Governor shall transmit forthwith an authentic copy of every law or regulation to which he shall have so declared his assent to the Governor General, and no such law or regulation shall have validity until the Governor General shall have assented thereto, and such assent shall have been signified by him to and published by the Governor: Provided always, that in every case where the Governor General shall withhold his assent from any such law or regulation, he shall signify to the Governor in writing his reason for so withholding his assent.

Power of the Crown to disallow laws and regulations of Presidencies.

XLI. Whenever any such law or regulation shall have been assented to by the Governor General, he shall transmit to the Secretary of State for *India* an authentic copy thereof, and it shall be lawful for Her Majesty to signify, through the Secretary of State for *India* in Council, Her disallowance of such law or regulation, and such disallowance shall make void and annul such law or regulation from or after the day on which such Governor shall make known by proclamation, or by signification to the Council, that he has received the notification of such disallowance by Her Majesty.

Extent of power of Governor of Presidency in Council to make laws and regulations.

XLII. The Governor of each of the said Presidencies in Council shall have power at meetings for the purpose of making laws and regulations as aforesaid, and, subject to the provisions herein contained, to make laws and regulations for the peace and good government of such Presidency, and for that purpose to repeal and amend any laws and regulations made prior to the coming into operation of this Act by any authority in *India*, so far as they affect such Presidency: Provided always, that such Governor in Council shall not have the power of making any laws or regulations which shall in any way affect any of the provisions of this Act, or of any other Act of Parliament in force, or hereafter to be in force, in such Presidency.

Governor of Presidency, except with sanction of Governor General, not to make or take into consideration certain laws or regulations.

XLIII. It shall not be lawful for the Governor in Council of either of the aforesaid Presidencies, except with the sanction of the Governor General, previously communicated to him, to make regulations or take into consideration any law or regulation for any of the purposes next hereinafter mentioned; that is to say,

1. Affecting the public debt of *India*, or the customs duties, or any other tax or duty now in force and imposed by the authority of the Government of *India* for the general purposes of such government:

2. Regulating any of the current coin, or the issue of any bills, notes, or other paper currency:

3. Regulating the conveyance of letters by the Post Office or messages by the Electric Telegraph within the Presidency:

4. Altering in any way the Penal Code of *India*, as established by Act of the Governor General in Council, No. 42 (*a*) of 1860:

5. Affecting the religion or religious rites and usages of any class of Her Majesty's subjects in *India*:

6. Affecting the discipline or maintenance of any part of Her Majesty's military or naval forces:

7. Regulating patents or copyright:

8. Affecting the relations of the Government with foreign Princes or States:

Provided always, that no law, or provision of any law or regulation which shall have been made by any such Governor in Council, and assented to by the Governor General as

(*a*) *Sic.*—The Penal Code is Act No. XLV of 1860.

aforesaid, shall be deemed invalid only by reason of its relating to any of the purposes comprised in the above list.

Governor General may establish Councils for making laws and regulations in the Presidency of Fort William in Bengal, and in other parts of India.

XLIV. The Governor General in Council, so soon as it shall appear to him expedient, shall, by proclamation, extend the provisions of this Act touching the making of laws and regulations for the peace and good government of the Presidencies of *Fort Saint George* and *Bombay* to the *Bengal* division of the Presidency of *Fort William*, and shall specify in such proclamation the period at which such provisions shall take effect, and the number of Councillors whom the Lieutenant Governor of the said division may nominate for his assistance in making laws and regulations; and it shall be further lawful for the Governor General in Council, from time to time and in his discretion, by similar proclamation, to extend the same provisions to the territories known as the North-Western Provinces and the *Punjab* respectively.

Constitution of such Councils.

XLV. Whenever such proclamation as aforesaid shall have been issued regarding the said division or territories respectively, the Lieutenant Governor thereof shall nominate, for his assistance in making laws and regulations, such number of Councillors as shall be in such proclamation specified; provided that not less than one-third of such Councillors shall in every case be non-official persons, as hereinbefore described, and that the nomination of such Councillors shall be subject to the sanction of the Governor General; and provided further, that at any meeting of any such Council from which the Lieutenant Governor shall be absent, the member highest in official rank among those who may hold office under the Crown shall preside; and the power of making laws and regulations shall be exercised only at meetings at which the Lieutenant Governor, or some member holding office as aforesaid, and not less than one-half of the members of Council so summoned as aforesaid, shall be present; and in any case of difference of opinion at any meetings of such Council for making laws and regulations, where there shall be an equality of voices, the Lieutenant Governor, or such member highest in official rank as aforesaid then presiding, shall have two votes or the casting vote.

Power to constitute new provinces, and appoint Lieutenant Governors.

XLVI. It shall be lawful for the Governor General, by proclamation as aforesaid, to constitute from time to time new provinces for the purposes of this Act, to which the like provisions shall be applicable; and further to appoint from time to time a Lieutenant Governor to any province so constituted as aforesaid, and from time to time to declare and limit the extent of the authority of such Lieutenant Governor, in like manner as is provided by the Act of the seventeenth and eighteenth years of Her Majesty, Chapter seventy-seven, respecting the Lieutenant Governors of *Bengal* and the North-Western Provinces.

Power to alter boundaries of provinces.

XLVII. It shall be lawful for the Governor General in Council, by such proclamation as aforesaid, to fix the limits of any Presidency, division, province, or territory in *India* for the purposes of this Act, and further by proclamation to divide or alter from time to time the limits of any such Presidency, division, province, or territory for the said purposes: Provided always, that any law or regulation made by the Governor or Lieutenant Governor in Council of any Presidency, division, province, or territory shall continue in force in any part thereof which may be severed therefrom by any such proclamation

until superseded by law or regulation of the Governor General in Council, or of the Governor or Lieutenant Governor in Council of the Presidency, division, province, or territory to which such parts may become annexed.

Former provisions of this Act extended to future Councils.

XLVIII. It shall be lawful for every such Lieutenant Governor in Council thus constituted to make laws for the peace and good government of his respective division, province, or territory; and, except as otherwise hereinbefore specially provided, all the provisions in this Act contained respecting the nomination of additional members for the purpose of making laws and regulations for the Presidencies of *Fort Saint George* and *Bombay*, and limiting the power of the Governors in Council of *Fort Saint George* and *Bombay* for the purpose of making laws and regulations, and respecting the conduct of business in the meetings of such Councils for that purpose, and respecting the power of the Governor General to declare or withhold his assent to laws or regulations made by the Governor in Council of *Fort Saint George* and *Bombay*, and respecting the power of Her Majesty to disallow the same, shall apply to laws or regulations to be so made by any such Lieutenant Governor in Council.

Previous assent of the Crown necessary to give validity to any such proclamation.

XLIX. Provided always, that no proclamation to be made by the Governor General in Council under the provisions of this Act for the purpose of constituting any Council for the Presidency, division, provinces, or territories hereinbefore named, or any other provinces, or for altering the boundaries of any Presidency, division, province, or territory, or constituting any new province for the purpose of this Act, shall have any force or validity until the sanction of Her Majesty to the same shall have been previously signified by the Secretary of State in Council to the Governor General.

Provision for the supply of the office of Governor General in certain circumstances.

L. If any vacancy shall happen in the office of Governor General of *India* when no provisional successor shall be in *India* to supply such vacancy, then and in every such case the Governor of the Presidency of *Fort Saint George*, or the Governor of the Presidency of *Bombay* who shall have been first appointed to the office of Governor by Her Majesty, shall hold and execute the said office of Governor General of *India* and Governor of the Presidency of *Fort William* in *Bengal* until a successor shall arrive, or until some person in *India* shall be duly appointed thereto; and every such acting Governor General shall, during the time of his continuing to act as such, have and exercise all the rights and powers of Governor General of *India*, and shall be entitled to receive the emoluments and advantages appertaining to the office by him supplied, such acting Governor General foregoing the salary and allowances appertaining to the office of Governor to which he stands appointed, and such office of Governor shall be supplied for the time during which such Governor shall act as Governor General, in the manner directed in Section sixty-three of the Act of the third and fourth years of King *William* the Fourth, Chapter eighty-five.

If it appears to Governor necessary to exercise powers before taking his seat in Council, he may

LI. If, on such vacancy occurring, it shall appear to the Governor, who by virtue of this Act shall hold and execute the said office of Governor General, necessary to exercise the powers thereof before he shall have taken his seat in Council, it shall be lawful for

make his appointment, &c., known by proclamation.

him to make known by proclamation his appointment, and his intention to assume the said office of Governor General, and after such proclamation, and thenceforth until he shall repair to the place where the Council may assemble, it shall be lawful for him to exercise alone all or any of the powers which might be exercised by the Governor General in Council, except the power of making laws and regulations; and all acts done in the exercise of the said powers, except as aforesaid, shall be of the same force and effect as if they had been done by the Governor General in Council; provided that all acts done in the said Council after the date of such proclamation, but before the communication thereof to such Council, shall be valid, subject nevertheless to revocation or alteration by such Governor who shall have so assumed the said office of Governor General; and from the date of the vacancy occurring until such Governor shall have assumed the said office of Governor General the provisions of Section sixty-two of the Act of the third and fourth years of King *William* the Fourth, Chapter eighty-five, shall be and the same are declared to be applicable to the case.

Nothing in this Act shall derogate from the powers of the Crown or Secretary of State for India in Council.

LII. Nothing in this Act contained shall be held to derogate from or interfere with (except as hereinbefore expressly provided) the rights vested in Her Majesty, or the powers of the Secretary of State for *India* in Council, in relation to the government of Her Majesty's dominions in *India*, under any law in force at the date of the passing of this Act; and all things which shall be done by Her Majesty, or by the Secretary of State as aforesaid, in relation to such government, shall have the same force and validity as if this Act had not been passed.

Meaning of term "in Council."

LIII. Wherever any act or thing is by this Act required or authorized to be done by the Governor General or by the Governors of the Presidencies of *Fort Saint George* and *Bombay* in Council, it is not required that such act or thing should be done at a meeting for making laws and regulations, unless where expressly provided.

Time when Act shall come into operation.

LIV. Except as hereinbefore specially provided, this Act shall commence and come into operation as soon as the same shall have been published by the said Governor General in Council by proclamation.

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24 & 25 VICTORIÆ, CAP. LXXIV.

AN ACT *to render lawful the enlistment of persons transferred from the Indian to the general forces of Her Majesty, and to provide in certain respects for the rights of such persons.*

[*6th August* 1861.]

Preamble.

WHEREAS by a general order of His Excellency the Governor General of *India* in Council, dated at *Fort William*, of the tenth day of *April* one thousand eight hundred and sixty-one, certain conditions were prescribed and offers made to the *European* officers and men of the *Indian* forces of Her Majesty, in order to facilitate the amalgamation of the said forces with Her Majesty's general forces: And whereas certain parts of the said conditions and offers cannot be carried into effect without the authority of Parliament: Be it enacted &c.

Enlistment of soldiers transferred from the Indian to the general forces of Her Majesty to be valid for the unexpired portions of the service of such soldiers.

I. If any soldier of Her Majesty's *European* forces in *India* has volunteered or shall volunteer from the said forces to enlist in any regiment of Her Majesty's general army, and has made or shall make the declaration provided by the said order of the Governor General, and contained in the Schedule of this present Act, or to the like effect, any such enlistment is declared to be and shall be as valid and effectual, for the unexpired portion of the service of such soldier, as if such soldier had originally enlisted in Her Majesty's land forces under the provisions of the Act of the tenth and eleventh years of Her Majesty, Chapter thirty-seven, intituled an Act for limiting the time of service in the army.

Persons so transferred to be accounted natural-born subjects for purposes of military service.

II. The provisions of the Act of the first year of Her Majesty, Chapter twenty-nine, intituled an Act for enabling Her Majesty to grant the rank of general officers to foreigners now bearing Her Majesty's Commission, and to permit the enlistment of foreigners under certain restrictions, shall not apply to the case of officers or soldiers in the *Indian* forces of Her Majesty, not being natural-born subjects, who have been or may be transferred to Her Majesty's general forces under the condition of the said order; but every such officer or soldier shall be upon the same footing, for the purposes of military service and promotion, and every act or thing done or to be done in respect of the enlistment and attestation of any such soldier shall be as legal for all purposes as if he were a natural-born subject of Her Majesty.

Rights of persons so transferred to pensions for service in Her Majesty's general forces.

III. If any soldier who has been or shall be so transferred as aforesaid is or shall become entitled to claim any pension for service or would have become entitled to claim any pension if his service had been wholly performed either in Her Majesty's *Indian* or in Her Majesty's general forces, it shall be lawful for the Commissioners of *Chelsea Hospital* to take such claim into consideration in the same manner as they are by law empowered to do in the case of soldiers discharged from Her Majesty's general service, but such pension shall be calculated in accordance with the regulations either of Her Majesty's *Indian* or of Her Majesty's general forces according as such soldier may choose, but subject to such conditions as to the time and manner of exercising such choice as have been or may be prescribed by the Commander-in-Chief of Her Majesty's forces in *India*; and it shall be lawful for the Secretary of State for *India* in Council and the Commissioners of Her Majesty's treasury to make by agreement such regulations as they may deem just and expedient as to the apportionment of the pensions aforesaid between the respective revenues of *India* and of the United Kingdom of *Great Britain* and *Ireland*.

No enlistment in India invalid by reason of the absence of a warrant from the Secretary at War, or because made out of Her Majesty's dominions.

IV. No enlistment or attestation of any soldier or person into Her Majesty's general or *Indian* forces which shall have taken place within Her Majesty's dominions in *India*, or within the territories of any foreign State in *India*, prior to the publication of this Act in the said dominions, before any person appointed in that behalf by the Governor of any Presidency in *India*, shall be invalid only by reason that no warrant had, at the time of such appointment or of such enlistment or attestation, been signed by the Secretary at War in accordance with the provisions of any Act of Parliament for the punishment of mutiny and desertion, or that the person so appointed had not authority to act out of Her Ma-

jesty's dominions; but every soldier or person so attested shall be deemed to be an attested soldier to the same effect as if such warrant had been signed as aforesaid, and such enlistment or attestation had taken place within Her Majesty's dominions; and no person so appointed who shall have enlisted and attested any soldier or person for Her Majesty's general or *Indian* forces shall be deemed to have acted illegally in so doing by reason that no such warrant had been issued as aforesaid, or that such enlistment or attestation did not take place within Her Majesty's dominions.

THE SCHEDULE.

Declaration to be made by a soldier volunteering from Her Majesty's Indian forces to regiments of Her Majesty's general Army.

I *A. B.* do declare that I have been till now a [Private, *or* Corporal, *or* Sergeant, *as the case may be*] in the Regiment of in Her Majesty's *Indian* military forces; that I enlisted on the day of for a term of years, of which years and months remain unexpired; that I am of the age of years; that I am willing to be transferred from the Infantry [*or as the case may be*] of Her Majesty's *Indian* forces to the 101st Regiment Royal Bengal Fusiliers [*or as the case may be*] of Her Majesty's army, for the unexpired residue of my term of service; and to accept, according to the terms of a General Order of His Excellency the Governor General of India in Council, No. 332, of the 10th day of April 1861, the bounty of Rupees upon such transfer; and that I will serve Her Majesty, Her Heirs and Successors, for the said unexpired term of years and months from this date, provided my services should so long be required, and also for such further term, not exceeding two years, as shall be directed by the Commanding Officer on any foreign station.

_____ *Signature of Soldier.*

_____ *Signature of Witness.*

Declared before me,

_____ *Signature of Justice of the Peace or Magistrate.*

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24 & 25 VICTORIÆ, CAP. LXXXIX.

An Act *to increase the amount payable out of the revenues of India in respect of the retiring pay, pensions, and other expenses of that nature, of Her Majesty's British forces serving in India.*

[*6th August* 1861.]

Preamble. 4 G. 4, c. 71.

Whereas by an Act passed in the fourth year of the reign of His late Majesty King *George* the Fourth, Chapter seventy-one, it was enacted, that in order to provide for the

charge incurred for retiring pay and pensions, and other expenses of that nature, arising in respect of His Majesty's forces serving in *India*, the annual sum of sixty thousand pounds should from and after the thirtieth day of *April* one thousand eight hundred and twenty-two be paid into the receipt of His Majesty's Exchequer out of the territorial revenues of the *East Indies*: And whereas the said annual sum of sixty thousand pounds is insufficient to defray the above-mentioned charge, and it is expedient to increase the contribution to be paid out of the said revenues to meet the said charge: Be it therefore enacted &c.

Recited Act (4 Geo. 4, c. 71) partly repealed.

I. So much of the said Act as relates to the payment out of the territorial revenues of the *East Indies* of the said annual sum of sixty thousand pounds in respect of the retiring pay, pensions, and other expenses of that nature, arising in respect of Her Majesty's forces serving in *India*, shall be and the same is hereby repealed.

Charge on revenues of India for 1861-62.

II. From the thirty-first day of *March* one thousand eight hundred and sixty-one until the thirty-first day of *March* one thousand eight hundred and sixty-two there shall be paid out of the revenues of *India*, to the account of Her Majesty's Exchequer at the Bank of *England*, in respect of the above-mentioned charge, and in lieu of the said annual sum of sixty thousand pounds, a sum calculated at the rate of three pounds ten shillings *per* head *per annum* upon the number of Her Majesty's *British* forces chargeable upon the said revenues of *India*, exclusive of the number at the depôts or on passage, as shown by the monthly muster rolls, the payment to be made monthly, and to be calculated upon the number shown in the last monthly muster rolls received in *England* before each month for which payment is to be made.

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24 & 25 VICTORIÆ, CAP. CIV.

An Act *for establishing High Courts of Judicature in India.*

[6*th August* 1861.]

[Sections 10 & 18 repealed by 28 Vic., cap. 15, sec. 2.]

Be it enacted &c.

Preamble.

High Courts may be established in the several Presidencies of India.

I. It shall be lawful for Her Majesty, by Letters Patent under the great seal of the United Kingdom, to erect and establish a High Court of Judicature at *Fort William* in *Bengal* for the *Bengal* division of the Presidency of *Fort William* aforesaid, and by like Letters Patent to erect and establish like High Courts at *Madras* and *Bombay* for those Presidencies respectively, such High Courts to be established in the said several Presidencies at such time or respective times as to Her Majesty may seem fit, and the High Court to be established under any such Letters Patent in any of the said Presidencies shall be deemed to be established from and after the publication of such Letters Patent in the same Presidency, or such other time as in such Letters Patent may be appointed in this behalf.

Constitution of High Courts.

II. The High Court of Judicature at *Fort William* in *Bengal* and at the Presidencies of *Madras* and *Bombay* respectively shall consist of a Chief Justice and as many Judges,

not exceeding fifteen, as Her Majesty may from time to time think fit and appoint, who shall be selected from—

1*st.*—Barristers of not less than five years' standing; or,

2*nd.*—Members of the covenanted Civil service of not less than ten years' standing, and who shall have served as zillah Judges, or shall have exercised the like powers as those of a zillah Judge for at least three years of that period; or,

3*rd.*—Persons who have held judicial office not inferior to that of Principal Sudder Ameen or Judge of a Small Cause Court for a period of not less than five years; or,

4*th.*—Persons who have been pleaders of a Sudder Court or High Court for a period of not less than ten years, if such pleaders of a Sudder Court shall have been admitted as pleaders of a High Court:

Provided that not less than one-third of the Judges of such High Courts respectively, including the Chief Justice, shall be barristers, and not less than one-third shall be members of the covenanted civil service.

Certain existing Judges herein named to be the first Judges of the High Court.

III. Provided always, that the persons who at the time of the establishment of such High Court in any of the said Presidencies are Judges of the Supreme Court of Judicature and permanent Judges of the Court of Sudder Dewanny Adawlut or Sudder Adawlut of the same Presidency shall be and become Judges of such High Court without further appointment for that purpose; and the Chief Justice of such Supreme Court shall become the Chief Justice of such High Court.

Tenure of office of High Courts.

IV. All the Judges of the High Courts established under this Act shall hold their offices during Her Majesty's pleasure: Provided that it shall be lawful for any Judge of a High Court to resign such office of Judge to the Governor General of *India* in Council or Governor in Council of the Presidency in which such High Court is established.

Precedence of Judges of High Courts.

V. The Chief Justice of any such High Court shall have rank and precedence before the other Judges of the same Court, and such of the other Judges of such Court as on its establishment shall have been transferred thereto from the Supreme Court shall have rank and precedence before the Judges of the High Court not transferred from the Supreme Court, and, except as aforesaid, all the Judges of each High Court shall have rank and precedence according to the seniority of their appointments, unless otherwise provided in their Patents.

Salaries, &c., of Judges of the High Courts.

VI. Any Chief Justice or Judge transferred to any High Court from the Supreme Court shall receive the like salary and be entitled to the like retiring pension and advantage as he would have been entitled to for and in respect of service in the Supreme Court, if such Court had been continued, his service in the High Court being reckoned as service in the Supreme Court; and, except as aforesaid, it shall be lawful for the Secretary of

State in Council of *India* to fix the salaries, allowances, furloughs, retiring pensions, and (where necessary) expenses for equipment and voyage of the Chief Justices and Judges of the several High Courts under this Act, and from time to time to alter the same: Provided always, that such alteration shall not affect the salary of any Judge appointed prior to the date thereof.

Provision for vacancy of the office of Chief Justice or other Judge.

VII. Upon the happening of a vacancy in the office of Chief Justice, and during any absence of a Chief Justice, the Governor General in Council or Governor in Council, as the case may be, shall appoint one of the Judges of the same High Court to perform the duties of Chief Justice of the said Court until some person has been appointed by Her Majesty to the office of Chief Justice of the same Court, and has entered on the discharge of the duties of such office, or until the Chief Justice has returned from such absence; and upon the happening of a vacancy in the office of any other Judge of any such High Court, and during any absence of any such Judge, or on the appointment of any such Judge to act as Chief Justice, it shall be lawful for the Governor General in Council or Governor in Council, as the case may be, to appoint a person, with such qualifications as are required in persons to be appointed to the High Court, to act as a Judge of the said High Court, and the person so appointed shall be authorized to sit and to perform the duties of a Judge of the said Court until some person has been appointed by Her Majesty to the office of Judge of the same Court, and has entered on the discharge of the duties of such office, or until the absent Judge has returned from such absence, or until the Governor General in Council or Governor in Council as aforesaid shall see cause to cancel the appointment of such acting Judge.

Abolition of Supreme Courts and Sudder Courts.

VIII. Upon the establishment of such High Court as aforesaid in the Presidency of *Fort William* in *Bengal*, the Supreme Court and the Court of Sudder Dewanny Adawlut and Sudder Nizamut Adawlut at *Calcutta* in the same Presidency shall be abolished:

And upon the establishment of such High Court in the Presidency of *Madras* the Supreme Court and the Court of Sudder Adawlut and Foujdarry Adawlut in the same Presidency shall be abolished:

And upon the establishment of such High Court in the Presidency of *Bombay* the Supreme Court and the Court of Sudder Dewanny Adawlut and Sudder Foujdarry Adawlut in the same Presidency shall be abolished:

And the records and documents of the several Courts so abolished in each Presidency shall become and be records and documents of the High Court established in the same Presidency.

Jurisdiction and powers of High Courts.

IX. Each of the High Courts to be established under this Act shall have and exercise all such civil, criminal, admiralty, and vice-admiralty, testamentary, intestate, and matrimonial jurisdiction, original and appellate, and all such powers and authority for and in relation to the administration of justice in the Presidency for which it is established, as Her Majesty may by such Letters Patent as aforesaid grant and direct, subject, however,

to such directions and limitations as to the exercise of original civil and criminal jurisdiction beyond the limits of the Presidency towns as may be prescribed thereby; and, save as by such Letters Patent may be otherwise directed, and subject and without prejudice to the legislative powers in relation to the matters aforesaid of the Governor General of *India* in Council, the High Court to be established in each Presidency shall have and exercise all jurisdiction and every power and authority whatsoever in any manner vested in any of the Courts in the same Presidency abolished under this Act at the time of the abolition of such last-mentioned Courts.

X. *Repealed by* 28 *Vic.*, *c.* 15, *s.* 2.

Existing provisions applicable to Supreme Courts to apply to High Courts.

XI. Upon the establishment of the said High Courts in the said Presidencies respectively all provisions then in force in *India* of Acts of Parliament, or of any orders of Her Majesty in Council, or charters, or of any Acts of the legislature of *India*, which at the time or respective times of the establishment of such High Courts are respectively applicable to the Supreme Courts at *Fort William* in *Bengal*, *Madras*, and *Bombay* respectively, or to the Judges of those Courts, shall be taken to be applicable to the said High Courts, and to the Judges thereof respectively, so far as may be consistent with the provisions of this Act, and the Letters Patent to be issued in pursuance thereof, and subject to the legislative powers in relation to the matters aforesaid of the Governor General of *India* in Council.

Provision as to pending proceedings in abolished Courts.

XII. From and after the abolition of the Courts abolished as aforesaid in any of the said Presidencies, the High Court of the same Presidency shall have jurisdiction over all proceedings pending in such abolished Courts at the time of the abolition thereof, and such proceedings, and all previous proceedings in the said last-mentioned Courts, shall be dealt with as if the same had been had in the said High Court, save that any such proceedings may be continued, as nearly as circumstances permit, under and according to the practice of the abolished Courts respectively.

Power to High Courts to provide for exercise of jurisdiction by single Judges or division Courts.

XIII. Subject to any laws or regulations which may be made by the Governor General in Council, the High Court established in any Presidency under this Act may by its own rules provide for the exercise, by one or more Judges, or by division Courts constituted by two or more Judges of the said High Court, of the original and appellate jurisdiction vested in such Court, in such manner as may appear to such Court to be convenient for the due administration of justice.

Chief Justice to determine what Judges shall sit alone or in the division Courts.

XIV. The Chief Justice of each High Court shall from time to time determine what Judge in each case shall sit alone, and what Judges of the Court, whether with or without the Chief Justice, shall constitute the several division Courts as aforesaid.

High Court to superintend and to frame rules of practice for subordinate Courts.

XV. Each of the High Courts established under this Act shall have superintendence over all Courts which may be subject to its appellate jurisdiction, and shall have power to call for returns, and to direct the transfer of any suit or appeal from any such Court to any other Court of equal or superior jurisdiction, and shall have power to make

and issue general rules for regulating the practice and proceedings of such Courts, and also to prescribe forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and also for keeping all books, entries, and accounts to be kept by the officers, and also to settle tables of fees to be allowed to the sheriff, attorneys, and all clerks and officers of Courts, and from time to time to alter any such rule or form or table; and the rules so made, and the forms so framed, and the tables so settled shall be used and observed in the said Courts, provided that such general rules and forms and tables be not inconsistent with the provisions of any law in force, and shall before they are issued have received the sanction, in the Presidency of *Fort William*, of the Governor General in Council, and in *Madras* or *Bombay* of the Governor in Council of the respective Presidencies.

Her Majesty may establish a High Court in the North Western Provinces.

XVI. It shall be lawful for Her Majesty, if at any time hereafter Her Majesty see fit so to do, by Letters Patent under the great seal of the United Kingdom, to erect and establish a High Court of Judicature in and for any portion of the territories within Her Majesty's dominions in *India*, not included within the limits of the local jurisdiction of another High Court, to consist of a Chief Justice and of such number of other Judges, with such qualifications as are required in persons to be appointed to the High Courts established at the Presidencies hereinbefore mentioned, as Her Majesty from time to time may think fit and appoint; and it shall be lawful for Her Majesty by such Letters Patent to confer on such Court any such jurisdiction, powers, and authority as under this Act is authorized to be conferred on or will become vested in the High Court to be established in any Presidency hereinbefore mentioned; and, subject to the directions of such Letters Patent, all the provisions of this Act having reference to the High Court established in any such Presidency, and to the Chief Justice and other Judges of such Court, and to the Governor General or Governor of the Presidency in which such High Court is established, shall, as far as circumstances may permit, be applicable to the High Court established in the said territories, and to the Chief Justice and other Judges thereof, and to the person administering the government of the said territories.

Other or supplemental charters may be granted within three years after establishment of a Court.

XVII. It shall be lawful for Her Majesty, if Her Majesty shall so think fit, at any time within three years *(a)* after the establishment of any High Court under this Act, by Her Letters Patent to revoke all or such parts or provisions as Her Majesty may think fit of the Letters Patent by which such Court was established, and to grant and make such other powers and provisions as Her Majesty may think fit, and as might have been granted or made by such first Letters Patent, or without any such revocation as aforesaid, by like Letters Patent to grant and make any additional or supplementary powers and provisions which might have been granted or made in the first instance.

XVIII. *Repealed by* 28 *Vic., c.* 15, *s.* 2.

Interpretation of terms.

XIX. The word "Barrister" in this Act shall be deemed to include Barristers of *England* or *Ireland* or Members of the faculty of Advocates in *Scotland*; and the words "Governor-General and Governor" shall comprehend the officer administering the government.

(*a*). This time was extended, by 28 Vic., c. 15, s. 1, to 1st January 1866.

24 & 25 VICTORIÆ, CAP. CXIV.

AN ACT *to amend the law with respect to Wills of personal estate made by British subjects.*

[*6th August* 1861.]

Be it enacted &c.

Wills made out of the Kingdom to be admitted if made according to the law of the place where made.

I. Every Will and other testamentary instrument made out of the United Kingdom by a *British* subject (whatever may be the domicile of such person at the time of making the same or at the time of his or her death) shall as regards personal estate be held to be well executed for the purpose of being admitted in *England* and *Ireland* to probate, and in *Scotland* to confirmation, if the same be made according to the forms required either by the law of the place where the same was made or by the law of the place where such person was domiciled when the same was made, or by the laws then in force *(a)* in that part of Her Majesty's dominions where he had his domicile of origin.

Wills made in the Kingdom to be admitted if made according to local usage.

II. Every Will and other testamentary instrument made within the United Kingdom by any *British* subject (whatever may be the domicile of such person at the time of making the same or at the time of his or her death) shall as regards personal estate be held to be well executed, and shall be admitted in *England* and *Ireland* to probate, and in *Scotland* to confirmation, if the same be executed according to the forms required by the laws for the time being in force in that part of the United Kingdom where the same is made.

Change of domicile not to invalidate Will.

III. No Will or other testamentary instrument shall be held to be revoked or to have become invalid, nor shall the construction thereof be altered, by reason of any subsequent change of domicile of the person making the same.

Nothing in this Act to invalidate Wills otherwise made.

IV. Nothing in this Act contained shall invalidate any Will or other testamentary instrument as regards personal estate which would have been valid if this Act had not been passed, except as such Will or other testamentary instrument may be revoked or altered by any subsequent Will or testamentary instrument made valid by this Act.

Extent of Act.

V. This Act shall extend only to Wills and other testamentary instruments made by persons who die after the passing of this Act.

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24 & 25 VICTORIÆ, CAP. CXVIII.

AN ACT *to enable the Secretary of State in Council of India to raise money in the United Kingdom for the service of the Government of India.*

[*6th August* 1861.]

Preamble.

WHEREAS the exigencies of the public service in *India* require that the Secretary of State in Council of *India* should be enabled to raise money in the United Kingdom on the credit of the revenues of *India*: Be it therefore enacted &c.

(*a*). See Act No. X of 1865. (The Indian Succession Act.)

Power to the Secretary of State in Council of India to raise any sum not exceeding five millions.

I. It shall be lawful for the Secretary of State in Council of *India*, at any time or times before the thirtieth day of *April* one thousand eight hundred and sixty-two, or, if Parliament be then sitting, before the end of the then Session of Parliament, to raise in the United Kingdom, for the service of the Government of *India*, any sum or sums of money not exceeding in the whole five millions, and such sum or sums may be raised by the creation and issue of bonds or debentures, or capital stock bearing interest, or annuities, or partly by one of such modes and partly by another or others.

Bonds may be issued under the hands of two members of the Council, countersigned by Secretary of State or one Under Secretary.

II. All bonds issued under the authority of this Act may be issued under the hands of two members of the Council of *India*, and countersigned by the Secretary of State for *India*, or one of his Under Secretaries, or his Assistant Under Secretary, and shall be for such respective amounts, payable after such notice, and at such rate or rates of interest as the said Secretary of State in Council may think fit.

Debentures may be issued.

III. All debentures issued under the authority of this Act may be issued under the hands of two members of the Council, and countersigned as aforesaid, for such respective amounts, and at such rate or rates of interest, as the Secretary of State in Council may think fit, and shall be issued at or for such prices and on such terms as may be determined by the Secretary of State in Council.

As to payment of principal and interest on debentures.

IV. All debentures issued under the authority of this Act shall be paid off at par at a time or times to be mentioned in such debentures respectively; and the interest on all such debentures shall be paid half-yearly on such days as shall be mentioned therein; and the principal monies and interest secured by such debentures shall be payable either at the treasury of the Secretary of State in Council in *London* or at the Bank of *England*.

Debentures transferable by delivery or deed.

Coupons by delivery.

V. All or any number of the debentures issued under the authority of this Act, and all right to and in respect of the principal and interest monies secured thereby, shall be transferable either by the delivery of such debentures respectively, or, at the discretion of the Secretary of State in Council, by deed; provided that the coupons for interest annexed to any debenture issued under the authority of this Act shall pass by delivery.

Capital stock and annuities may be created and issued.

VI. Any capital stock created under the authority of this Act shall bear such a rate of interest, and any annuities to be created under the authority of this Act shall be at such rate *per centum per annum*, as the Secretary of State in Council may think fit; and such capital stock and such annuities may be issued on such terms as may be determined by the Secretary of State in Council; and any such capital stock may bear interest during such period, and be paid off at par at such time, as the Secretary of State in Council may prescribe previously to the issue of such capital stock; and such annuities may be terminable at such period as the Secretary of State in Council may prescribe previously to the issue of such annuities.

Transfer books of such capital stock and annuities to be kept.

VII. In case of the creation and issue of any such capital stock or of any such annuities, there shall be kept, either at the office of the Secretary of State in Council in *London* or at the Bank of *England*, books wherein entries shall be made of the said capital stock and annuities respectively, and wherein all assignments or transfers of the same re-

spectively, or any part thereof respectively, shall be entered and registered, and shall be signed by the parties making such assignments or transfers, or, if such parties be absent, by his, her, or their attorney or attornies thereunto lawfully authorized by writing under his, her, or their hands and seals, to be attested by two or more credible witnesses; and the person or persons to whom such transfer or transfers shall be made may respectively underwrite his, her, or their acceptance thereof; and no other mode of assigning or transferring the said capital stock or the said annuities, or any part thereof respectively, or any interest therein respectively, shall be good and available in law, and no stamp-duties whatsoever shall be charged on the said transfers or any of them.

Annuities personal estate.

VIII. All annuities created and issued under the authority of this Act shall be deemed and taken to be personal and not real estate, and shall go to the executors or administrators of the person or persons dying possessed thereof, interested therein, or entitled thereto, and not to the heir-at-law, nor be liable to any foreign attachment by the custom of *London*, or otherwise.

The whole amount charged on revenue of India not to exceed five millions.

IX. The whole amount of the principal monies to be charged on the revenues of *India* under this Act shall not exceed five millions; and no money shall be raised or secured under the authority of this Act after the said thirtieth day of *April* one thousand eight hundred and sixty-two, or, if Parliament be then sitting, after the end of the then Session of Parliament, save for or upon the repayment of principal monies previously secured under this Act as hereinafter provided.

Power to raise money for payment of principal money.

X. Upon or for the repayment of any principal money secured under the authority of this Act, the Secretary of State in Council may at any time borrow or raise, by all or any of the modes aforesaid, all or any part of the amount of principal money repaid or to be repaid, and so from time to time as all or any part of any principal money under this Act may require to be repaid, but the amount to be charged upon the revenues of *India* shall not in any case exceed the principal money required to be repaid.

Securities, &c to be charged on revenues of India.

XI. All bonds and debentures to be issued under this Act, and the principal monies and interest thereby secured, and all capital stock to be issued under this Act, and the interest thereon, and all annuities to be issued under this Act, shall be charged on and payable out of the revenues of *India*, in like manner as other liabilities incurred on account of the Government of the said territories.

Provisions as to composition for stamp-duties on India bonds extended to bonds and debentures under this Act.

XII. The provisions contained in Section four of the Act of the Session holden in the fifth and sixth years of King *William* the Fourth, Chapter sixty-four, with respect to the composition and agreement for the payment by the *East India* Company of an annual sum in lieu of stamp-duties on their bonds, and the exemption of their bonds from stamp-duties, shall be applicable with respect to the bonds and debentures to be issued under the authority of this Act, as if such provisions were here repeated and re-enacted with reference thereto.

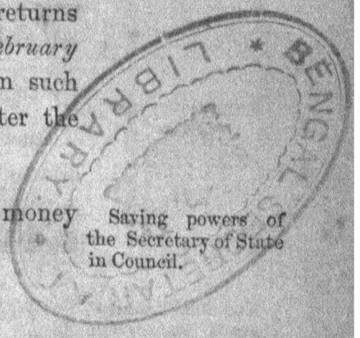
Forgery of debentures to be punishable as forgery of East India bonds.

XIII. All provisions now in force in anywise relating to the offence of forging or altering, or offering, uttering, disposing of, or putting off, knowing the same to be forged or altered, any *East India* bond, with intent to defraud, shall extend and be applicable to

and in respect of any debenture issued under the authority of this Act, as well as to and in respect of any bond issued under the same authority.

Returns to be annually prepared of monies raised on loan, &c., and presented to Parliament.

XIV. Provided always, that on or before the first day of *February* in each year the said Secretary of State in Council shall prepare or cause to be prepared a return of all monies raised on loan under the provisions of this Act; also a return of all stocks, loans, debts, and liabilities then chargeable on the revenues of *India*, at home and abroad, up to the latest period of time to which such return can be made out: That all such returns shall be presented to both Houses of Parliament on or before the first day of *February* in each year, if Parliament is then sitting, and if Parliament is not sitting, then such returns shall be presented within ten days of the first meeting of Parliament after the first day of *February* in each year.



Saving powers of the Secretary of State in Council.

XV. This Act shall not prejudice or affect any power of raising or borrowing money vested in the said Secretary of State in Council at the time of passing thereof.

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24 & 25 VICTORIÆ, CAP. CXXI.

An Act *to amend the law in relation to the Wills and domicile of British subjects dying whilst resident abroad, and of foreign subjects dying whilst resident within Her Majesty's dominions.*

[*6th August* 1861.]

Preamble.

Whereas by reason of the present law of domicile the Wills of *British* subjects dying whilst resident abroad are often defeated, and their personal property administered in a manner contrary to their expectations and belief; and it is desirable to amend such law, but the same cannot be effectually done without the consent and concurrence of foreign States: Be it therefore enacted &c.

No British subject dying in a foreign country to be deemed to have acquired a domicile unless resident there for one year immediately preceding his or her death, &c., and for all purposes of testate or intestate succession shall retain the domicile possessed at the time of going to reside in such foreign country.

I. Whenever Her Majesty shall by convention with any foreign State agree that provisions to the effect of the enactments herein contained shall be applicable to the subjects of Her Majesty and of such foreign State respectively, it shall be lawful for Her Majesty by any order in council to direct, and it is hereby enacted, that from and after the publication of such order in the *London Gazette* no *British* subject resident at the time of his or her death in the foreign country named in such order shall be deemed under any circumstances to have acquired a domicile in such country unless such *British* subject shall have been resident in such country for one year immediately preceding his or her decease, and shall also have made and deposited in a public office of such foreign country (such office to be named in the order in council) a declaration in writing of his or her intention to become domiciled in such foreign country; and every *British* subject dying resident in such foreign country, but without having so resided and made such declaration as aforesaid, shall be deemed for all purposes of testate or intestate succession as to moveables to retain the domicile he or she possessed at the time of his or her going to reside in such foreign country as aforesaid.

No foreign subject dying in Great Britain or Ireland to be deemed to have acquired a domicile unless resident therein for one year immediately preceding his or her death, &c.

II. After any such convention as aforesaid shall have been entered into by Her Majesty with any foreign State it shall be lawful for Her Majesty by order in council to direct, and from and after the publication of such order in the *London Gazette* it shall be and is hereby enacted, that no subject of any such foreign country who at the time of his or her death shall be resident in any part of *Great Britain* or *Ireland* shall be deemed under any circumstances to have acquired a domicile therein, unless such foreign subject shall have been resident within *Great Britain* or *Ireland* for one year immediately preceding his or her decease, and shall also have signed, and deposited with Her Majesty's Secretary of State for the Home Department, a declaration in writing of his or her desire to become and be domiciled in *England*, *Scotland*, or *Ireland*, and that the law of the place of such domicile shall regulate his or her moveable succession.

Who this Act shall not apply to.

III. This Act shall not apply to any foreigners who may have obtained letters of naturalization in any part of Her Majesty's dominions.

When subjects of foreign States shall die in Her Majesty's dominions, and there shall be no persons to administer to their estates, the consuls of such foreign States may administer.

IV. Whenever a convention shall be made between Her Majesty and any foreign State, whereby Her Majesty's consuls or vice-consuls in such foreign State shall receive the same or the like powers and authorities as are hereinafter expressed, it shall be lawful for Her Majesty by order in council to direct, and from and after the publication of such order in the *London Gazette* it shall be and is hereby enacted, that whenever any subject of such foreign State shall die within the dominions of Her Majesty, and there shall be no person present at the time of such death who shall be rightfully entitled to administer to the estate of such deceased person, it shall be lawful for the consul, vice-consul, or consular agent of such foreign State within that part of Her Majesty's dominions where such foreign subject shall die, to take possession and have the custody of the personal property of the deceased, and to apply the same in payment of his or her debts and funeral expenses, and to retain the surplus for the benefit of the persons entitled thereto; but such consul, vice-consul, or consular agent shall immediately apply for and shall be entitled to obtain from the proper Court letters of administration of the effects of such deceased person, limited in such manner and for such time as to such Court shall seem fit.

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25 VICTORIÆ, CAP. VII.

An Act *to provide for the registration and transfer of India stocks at the Bank of Ireland, and for the mutual transfer of such stocks from and to the Banks of England and Ireland respectively.*

[11*th April* 1862.]

(1) [Interpretation of expression "India Stock."]

(2) [Power to transfer India stock from the books of the Bank of England to the books of the Bank of Ireland.]

(3) [Assignments or transfers of stock so transferred may be made at the Bank of Ireland.]

(4) [Power to transfer India stock from the books of the Bank of Ireland to the books of the Bank of England.]

(5) [No transfer shall be made within a certain period before the closing day.]

(6) [Application to be made to the Banks of England and of Ireland for permission to transfer from the one to the other, and upon such transfers being made certificates to be granted.]

(7) [Notices of transfers to be sent to the Bank into which the stock is to be transferred.]

(8) [Books to be provided for entering transfers under this Act at the Banks of England and Ireland respectively.]

(9) [On production of certificate from the Bank where the transfer is made, the Bank to which the transfer is made shall write the amount of stock into their books.]

(10) [Banks of England and of Ireland to certify to the Secretary of State in Council of India the amount of stock written in their books prior to dividend, and the interest to be paid to them by such Secretary of State.]

(11) [Remuneration for services under this Act to be paid to the Bank of Ireland.]

(12) [Duplicates may be granted of certificates lost or destroyed.]

(13) [Power to Bank of Ireland to close books for transfer.]

(14) [Persons forging, &c., certificates guilty of felony.]

(15) [No fee, &c., to be taken for receiving certificates, or paying dividends, &c., on penalty of 20*l*, with costs of suit.]

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25 & 26 VICTORIÆ, CAP. XXVII.

AN ACT *to authorize payments for a further period out of the revenues of India in respect of the retiring pay, pensions, and other expenses of that nature of Her Majesty's British forces serving in India.*

[30*th June* 1862.]

Preamble. 24 & 25 Vic., c. 89.

WHEREAS by an Act passed in the Session holden in the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, Chapter eighty-nine, intituled an Act to increase the amount payable out of the revenues of *India* in respect of the retiring pay, pensions, and other expenses of that nature of Her Majesty's British forces serving in *India*, after reciting that the sum of sixty thousand pounds therein mentioned to have been hitherto paid annually into the receipt of Her Majesty's Exchequer out of the territorial revenues of the *East Indies*, in order to provide for the charge incurred for retiring pay and pensions and other expenses of that nature was insufficient, and that it was expedient that it should be increased, it was enacted, that from the thirty-first day of *March*

one thousand eight hundred and sixty-one until the thirty-first day of *March* one thousand eight hundred and sixty-two there should be paid out of the revenues of *India* to the account of Her Majesty's Exchequer such sum as therein mentioned, being the same as is herein required to be paid for a further limited period: And whereas it is expedient that the payment so made should be continued as hereinafter mentioned: Be it enacted &c.

Future charge on revenues of India.

I. From the thirty-first day of *March* one thousand eight hundred and sixty-two until the thirty-first day of *March* one thousand eight hundred and sixty-seven there shall be paid annually out of the revenues of *India*, to the account of Her Majesty's Exchequer at the Bank of *England*, in respect of the above-mentioned charge, a sum calculated at the rate of three pounds ten shillings *per* head *per annum* upon the number of Her Majesty's *British* forces chargeable upon the said revenues of *India*, exclusive of the number at the depôts or on passage, as shown by the monthly muster rolls, the payment to be made monthly, and to be calculated upon the number shown in the last monthly muster rolls received in *England* before each month for which payment is to be made.

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25 & 26 VICTORIÆ, CAP. XXXIX.

An Act *for enabling the Commissioners of Her Majesty's Treasury to make arrangements with the Red Sea and India Telegraph Company.*

[17*th July* 1862.]

(1) [Transfer of property from old Company to new.]

(2) [List of shareholders to be made.]

(3) [Charge upon consolidated fund of terminable annuities.]

(4) [Rights of shareholders to terminable annuities.]

(5) [Delivery of transfer books to Bank of England.]

(6) [Redemption of annuity.]

(7) [Contribution of revenues of India.]

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26 & 27 VICTORIÆ, CAP. XLVIII.

An Act *to repeal the Act of the twentieth and twenty-first years of Her Majesty, Chapter sixty-six, for punishing mutiny and desertion of officers and soldiers in the service of the East India Company, and for regulating in such service the payment of regimental debts and the distribution of the effects of officers and soldiers dying in the service.*

[13*th July* 1863.]

Preamble. 26 & 27 Vic., c 8.

Whereas it is expedient that the officers and soldiers of Her Majesty's *European* forces in *India* should from henceforth be subject to the provisions of such Acts for the

punishment of mutiny and desertion as may from time to time be passed for the government of Her Majesty's general forces: And whereas provision has been made in that behalf in the Act "for punishing mutiny and desertion, and for the better payment of the army and their quarters," which has been passed in the present Session of Parliament: Be it therefore enacted &c.

20 & 21 Vic., c. 66 repealed.

I. The Act passed in the twentieth and twenty-first years of Her Majesty, for punishing mutiny and desertion of officers and soldiers in the service of the *East India* Company, and for regulating in such service the payment of regimental debts, and the distribution of the effects of officers and soldiers dying in the service, is hereby repealed.

Offences against repealed Act, and Articles of War made under it, and all existing proceedings, continued.

II. All crimes and offences which shall have been committed against the said Act hereby repealed, or against any of the Articles of War made and established by virtue of the same, may be inquired of and punished in like manner as if they had been committed against the said Mutiny Act of this present Session, and every warrant or order for holding any Court-martial under the said repealed Act shall remain in full force, and all proceedings of Courts-martial convened and held under any such warrant or order shall be still continued: Provided always, that no person shall be liable to be tried or punished for any offence against the said repealed Act, or any Articles of War made in pursuance thereof, which shall appear to have been committed more than three years before the date of the warrant or order for such trial, unless the person accused, by reason of his having absented himself, or of some other manifest impediment, shall not have been amenable to justice, within that period, in which case such person shall be liable to be tried at any time not exceeding two years after the impediment shall have ceased.

Not to affect provisions of 7 & 8 Vic., c. 28

III. Nothing in this Act, or in the said Mutiny Act passed in the present Session of Parliament, shall affect the provisions of an Act passed in the seventh year of Her Majesty, intituled an Act to remove doubts as to the power of appointing, convening, and confirming the sentences of Courts-martial in the *East Indies*, and all the provisions thereof shall remain in force, unless and except they may be in any respect inapplicable.

Commencement of Act

IV. This Act shall commence and take effect from and after the first day of *February* one thousand eight hundred and sixty-five, or from and after any earlier day whereon the said Mutiny Act passed in the present Session of Parliament may become and be in full force in *India*, and from and after such day as aforesaid the Articles of War made by Her Majesty in pursuance of the said repealed Act shall cease and determine; Provided nevertheless, that full effect shall be given to the provisions hereinbefore contained respecting the punishment of offences against the said repealed Act and otherwise as hereinbefore is mentioned, and that, so far as may be necessary to give full effect to such provisions, the said repealed Act, and the Articles of War made in pursuance of the same, shall be deemed to be in full force.

Not to affect certain matters &c., as to Native Indian officers and soldiers

V. Nothing in this Act contained shall in any manner prejudice or affect any Articles of War or other matters made, enacted, or in force, or which may hereafter be made, enacted, or in force, under the authority of the Government of *India*, respecting officers or soldiers or followers in Her Majesty's *Indian* army, being Natives of India.

26 & 27 VICTORIÆ, CAP. LVII.

AN ACT *to consolidate and amend the Acts relating to the payment of regimental debts, and the distribution of the effects of officers and soldiers in case of death, and to make like provision for the cases of desertion and insanity, and other cases.*

[21*st July* 1863.]

Preamble.

WHEREAS it is expedient to consolidate and amend the provisions now in force relating to the payment of regimental debts, and the distribution of the effects of officers and soldiers dying on service, and those provisions having been found beneficial, it is also expedient to make like provision for the security and application of the effects of deserters and others, and of officers and soldiers becoming insane on service: Be it therefore enacted &c.

Preliminary.

Short title.

I. This Act may be cited as the Regimental Debts Act, 1863.

Interpretation of terms.

II. In this Act—

The term "officer" means (except where it is otherwise expressed) a commissioned officer of Her Majesty's army, or of Her Majesty's *Indian* army:

The term "soldier" means (except where it is otherwise expressed) a soldier of Her Majesty's army, or a *European* soldier of Her Majesty's *Indian* army, including a warrant and a non-commissioned officer:

The term "representation" includes probate, and letters of administration, with or without Will annexed, and the corresponding documents or Acts in use according to the law of *Scotland*, or other law in force in any place where this Act operates:

The term "representative" means any person taking out representation:

The term "the Secretary of State for War" means such one of Her Majesty's principal Secretaries of State for the time being as Her Majesty thinks fit to intrust with the seals of the War Department:

21 & 22 Vic., c. 106.

The term "*India*" means the territories for the time being vested in Her Majesty under the Act of the year 1858, "for the better Government of *India*:"

The term "the Secretary of State for *India* in Council" means one of Her Majesty's principal Secretaries of State acting with the Council of *India* under that Act:

The term "person" includes a corporation and any body of persons.

Repeal of enactments in Schedule.

III. The enactments described in the Schedule to this Act shall be repealed; but this repeal shall not affect the past operation of any such enactment, or any thing already done, or any right, title, obligation, or liability already accrued thereunder, or any remedy or proceeding for the enforcement thereof.

Part I.—Death on Service.

Preferential Charges.

Definition of preferential charges on property,—military debts, &c.

IV. Where an officer or soldier dies on service, the following classes of expenses and debts incurred and owing by him or on his account shall, for the purposes of this Act, be considered preferential charges on his personal property, and be payable thereout in preference to all other debts and liabilities, and, as among themselves, in the following order:—

(1). Expenses of last illness and funeral:

(2). Military debts, namely, sums due in respect of—
Quarters;
Mess, band, and other regimental accounts;
Military clothing, appointments and equipments, not exceeding a sum equal to six months' pay of the deceased, and having become due within eighteen months before his death;
including sums due to any agent or to any Paymaster, Quartermaster, or other officer, on any such account, or on account of any advance made for any such purpose:

to which shall be added, where the death occurs out of the United Kingdom,—

(3). Servants' wages, not exceeding two months' wages to each servant:

(4). Household expenses incurred within a month before the death or after the last issue of pay to the deceased, whichever is the shorter period.

Surplus only of personal estate to be deemed personal estate.

V. The surplus only of the personal property of an officer or soldier dying on service, remaining over after payment of preferential charges, shall be considered personal estate of the deceased, with reference to the calculation of probate duty, or of any other tax or percentage, or for any of the purposes of administration or distribution.

Questions respecting amount, payment, &c., of preferential charges to be decided by Secretary of State, or in India by Military Secretary to Government of Presidency.

VI. If in any case a doubt or difference arises as to any particular expense or debt being a preferential charge or not,—or as to any alleged preferential charge having been in fact incurred, or being due, in the whole or in part, or not,—or as to the priority among or payment of any preferential charges, where the property is insufficient to pay all in full, or where those of one class exceed the amount allowed for that class,—or otherwise in relation to any preferential charge or the payment thereof,—the decision of the Secretary of State for War, where the death occurs elsewhere than in *India*, and of the Military Secretary to the Government of the Presidency in which the deceased was quartered, where the death occurs in *India*, or of such officer or person as the Secretary of State or Military Secretary respectively deputes by writing under his hand to act for him in this behalf, shall be final, and shall be binding on all persons for all purposes.

Collection and Disposal of Effects.

On death of officer or soldier on service, committee of

VII. Immediately on the death of an officer or soldier on service, such committee of officers as may be prescribed by royal warrant, according to the circumstances of

officers to secure effects.

different cases, hereinafter called the Committee of Adjustment, shall secure all such of his effects as—

Where the death occurs in the United Kingdom, are in camp or quarters; and

Where the death occurs out of the United Kingdom, are within the station, colony, or command.

If preferential charges not paid, power to committee to sell and convert effects, and to get in credits, and, after payment of expenses, to secure surplus.

VIII. Provided, that if the representative of the deceased, or his widow (if any), or any of his next-of-kin, pays in full the preferential charges, the Committee of Adjustment shall not further interfere in relation to the property.

If such payment is not made, then, within one month after the death, the Committee of Adjustment may and shall, without any representation taken out, and as if they were the representatives of the deceased, and to the exclusion of all other authorities and persons whomsoever, sell or convert into money such parts of the effects of the deceased as do not consist of money,—and also where the death occurs out of the United Kingdom get in and give receipts (which shall be effectual discharges) for all or any of the credits forming part of the estate of the deceased, and being payable or recoverable in *India* or in the colony or possession in which the deceased was quartered (as the case may be), and, if they think fit, sue for and recover any of such credits,—and, after paying thereout the expenses attending the discharge of their duties, shall pay thereout the preferential charges, and secure the surplus of the effects, or effects and credits, as the case may be, remaining over after all such payments.

In India, power for committee to deliver over effects to Administrator General.

IX. Where the death occurs in *India*, the Committee of Adjustment may, in such cases, under such circumstances, and at such time or times, as may be prescribed by royal warrant, according to the circumstances of different cases, deliver over the effects secured by them to the Administrator General for the Presidency(*a*) in which the deceased was quartered.

Disposal of Surplus.

Remittance of surplus by committee.

X. The Committee of Adjustment shall, according to the circumstances of the case, remit or lodge the surplus aforesaid to or in the hands of such Paymaster or other officer or person, at such time or times, in such manner, and together with such accounts, vouchers, reports, and information, as may be prescribed by royal warrant.

As to the payment of surplus where deaths occur in India or elsewhere.

XI. Where the death occurs elsewhere than in *India*, or the death occurs in *India*, the deceased being (in the latter case) a soldier of Her Majesty's army, then the Paymaster or other officer or person aforesaid shall dispose of the surplus as follows:—

(1). Where the amount exceeds one hundred pounds, he shall pay it over to the representative of the deceased, if present at head-quarters, and if there is none, shall forthwith remit it to the Secretary of State for War:

(2). Where the amount does not exceed one hundred pounds, it shall not be necessary for any purpose that representation to the deceased be taken out, but if representation is taken out, such Paymaster or other officer or person shall pay the amount over to the representative, if present at head-quarters:

(*a*) See Act XXIV of 1867, Secs. 21, 62—*Ed.*

(3). Where the amount does not exceed one hundred pounds, and representation is not taken out, then such Paymaster or other officer or person shall dispose of the amount, or part thereof, (in such manner as may be prescribed by royal warrant for such cases), for the benefit of the widow and of the children or other near relatives (if any) of the deceased, or of some of such persons, being present at head-quarters; and if there are no such persons, or any part of the amount aforesaid is not so disposed of for their benefit, he shall forthwith remit the whole amount, or the part thereof not so disposed of, (as the case may be), to the Secretary of State for War.

Provision where death occurs in India, the deceased not being a soldier.

XII. Where the death occurs in *India*, the deceased not being a soldier of Her Majesty's army, the following provisions shall take effect:—

(1). The Paymaster or other officer or person aforesaid shall, as soon as may be after receiving the surplus aforesaid, publish such notice (stating the amount of the surplus, and other particulars respecting the deceased and his property,) as may be prescribed by royal warrant, together with a notice stating that all claims by creditors against the property of the deceased are to be lodged with such Paymaster or other officer or person, who shall retain the surplus for two months after the first publication of such Gazette notice as aforesaid, and shall receive and record all claims lodged with him accordingly:

(2). If claims are so lodged, not exceeding in the whole such absolute amount, or such proportion of the surplus, as may be prescribed by Royal warrant, according to the circumstances of different cases, then such Paymaster or other officer or person shall, at the expiration of the said two months, proceed to discharge the demands of the claimants who have lodged claims with him, unless under the special circumstances of the case of the deceased it appears to him inexpedient or unjust to do so:

(3). In that case, or in case the claims lodged exceed in the whole the absolute amount or the proportion aforesaid, then such Paymaster or other officer or person shall, without discharging those claims, or any of them, transfer the surplus aforesaid to the Administrator General for the Presidency (*a*):

(4). Where such Paymaster or other officer or person does not so transfer the surplus, he shall dispose thereof, or of so much thereof as remains after the discharge of any claims, as follows:

Where the amount exceeds one hundred pounds, he shall pay it over to the representative of the deceased in *India*, if any;

Where the amount does not exceed one hundred pounds, it shall not be necessary for any purpose that representation to the deceased be taken out in *India*, but if representation is taken out there, such Paymaster or other officer or person shall pay the amount over to the representative in *India*;

(*a*) See Act XXIV of 1867.

Where the amount does not exceed one hundred pounds, and representation in *India* is not taken out, such Paymaster or other officer or person shall dispose of the amount, or part thereof, in *India*, (in such manner as may be prescribed by royal warrant for such cases), for the benefit of the widow and of the children or other near relatives (if any) of the deceased, or of some of such persons, being in *India*:

(5). Subject to the foregoing provisions, such Paymaster or other officer or person shall, at the expiration of such time, not exceeding in any case six months, as may be prescribed by royal warrant, remit the surplus, or so much thereof as remains in his hands after discharging any claims, from *India* to *England*, as follows,—

In the cases of officers of Her Majesty's army constituting the Staff Corps of the three Presidencies, and in the cases of officers and *European* soldiers of Her Majesty's *Indian* army, to the Secretary of State for *India* in Council,—

In other cases, to the Secretary of State for War.

Disposal of Residue by Secretary of State.

On receipt of surplus at War or India office, notices to be published in London Gazette, &c. as to amount to credit of deceased, and other particulars.

XIII. The Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, on receiving any such surplus or part of a surplus as is hereinbefore directed to be remitted, shall cause an account to be made up, as soon as may be, of the total amount to the credit of the deceased, including the amount of the surplus or part of a surplus so remitted, together with all arrears of pay, batta, grants, and other allowances in the nature thereof, and thereupon shall cause to be published, as soon as conveniently may be, in the *London Gazette*, and also in any newspaper or otherwise as may seem fit, a notice stating the total amount to the credit of the deceased as aforesaid, hereinafter called the residue, and such other particulars respecting the deceased and his property as may seem fit, together with a notice stating the mode in which any application respecting the residue is to be made to the Secretary of State for War, or to the Secretary of State for *India* in Council, as the case may be.

Residue exceeding £100 to be paid to representative of deceased.

XIV. Where the residue exceeds one hundred pounds, the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, shall dispose of the residue by paying it over to the representative of the deceased.

Residue not exceeding £100 to be paid to representative, if any.

XV. Where the residue does not exceed one hundred pounds, it shall not be necessary for any purpose that representation to the deceased be taken out, but in any case the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, may, if it seems fit, require representation to be taken out; and if, on that requisition or otherwise, representation is taken out, then he shall dispose of the residue by paying it over to the representative.

Where residue does not exceed £100, and no representation, War or India office empowered to pay it over for benefit of widow, &c., or to invest it for benefit of children, &c.

XVI. Where the residue does not exceed one hundred pounds and representation is not taken out, then, after the expiration from the first publication of the required notice in the *London Gazette*, of three months in the case of an officer, and of one month in the case of a soldier, the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, shall dispose of the residue as follows :—

(1). He shall, if he thinks fit, pay the residue over to any person showing herself or himself, to the satisfaction of the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, to be the widow of the deceased, or to be the child or any relative of the deceased, or to be entitled to take out representation to the deceased,—to the end that the residue may be applied by the person to whom it is so paid over in a due course of administration, and the same shall be so applied accordingly (for which application the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, may require such security as seems fit) :

(2). Or else, where the deceased leaves any child or near relative him surviving, the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, shall retain the residue in his hands on behalf of such child or near relative, and shall invest the residue, or any part thereof, in such manner as may be prescribed by royal warrant, and shall apply the sums invested, and the income thereof, or any part thereof respectively, from time to time, for the maintenance, education, or advancement, or otherwise for the benefit, of such child or near relative, in such manner as may seem fit, subject to such regulations as may be laid down by royal warrant.

Debts.

Provision in last-mentioned case for payment of debts out of residue.

XVII. Notwithstanding anything hereinbefore contained, where the residue does not exceed one hundred pounds, and representation to the deceased is not taken out, the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, shall. before disposing of the residue or any part thereof, in manner aforesaid,—or after so disposing of the residue or any part thereof, if and so far as the disposition thereof is capable of revocation,—apply the residue, or so much as may be requisite, in or towards payment of any debt of the deceased of which he has notice, subject to the following conditions :

First.—That the debt accrued due within three years before the death :

Second.—That payment of it is claimed within two years after the death :

Third.—That the claimant proves the debt to the satisfaction of the Secretary of State for War, or of the Secretary of State for *India* in Council, as the case may be.

Any person claiming to be a creditor of the deceased shall not be entitled to obtain payment of his debt out of any money that may, under this Act, be in the hands of the Secretary of State for War, or of the Secretary of State for *India* in Council, by any means or proceedings whatever except by means of a claim lodged with such Secretary of State, and proceedings thereon, under and according to this Act.

Nothing in the present Section shall prejudicially affect the claim of any creditor in respect of a debt incurred before the commencement of this part of this Act.

Undisposed of Residues.

Residues undisposed of for six years to be applied towards compassionate fund.

XVIII. If in any case the residue or any part thereof remains, for one year after the first publication of the required notice in the *London Gazette*, in the hands of the Secretary of State for War, or of the Secretary of State for *India* in Council, as the case may be, undisposed of or unappropriated, then as soon as conveniently may be after the end of that year the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, shall cause to be published in the *London Gazette* a notice similar to the original required notice, *mutatis mutandis*, and so for six successive years from the publication of the original notice; and if in any case the residue, or any part thereof, remains in the hands of the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, undisposed of or unappropriated for six months after the publication of the last of such required notices in the *London Gazette*, then at the expiration of the said six months he shall apply the same, together with any income or accumulations of income accrued therefrom, in such manner in or towards the creation or maintenance of such compassionate or other fund for the benefit of widows and children or other near relatives of soldiers dying on service, as may be prescribed by royal warrant.

Provided, that the application under the present Section of any residue, or part of a residue, undisposed of or unappropriated as aforesaid, shall not be deemed to bar any claim of any person to the same, or any part thereof, that may be established at any time after such application.

Medals and Decorations.

Medals and decorations excepted;

XIX. Medals and decorations belonging to an officer or soldier dying on service shall not be considered to be comprised in the personal estate of the deceased with reference to the claims of creditors or for any of the purposes of administration under this Act or otherwise; and, notwithstanding anything in this or any other Act contained, the same, when secured by the Committee of Adjustment, shall be held and disposed of according to regulations laid down by royal warrant.

to be disposed of according to royal warrant.

Exception as to Regimental Paymasters.

Special provision for case of death of regimental Paymaster.

XX. The case of a regimental Paymaster dying on service shall, notwithstanding anything hereinbefore contained, be provided for as follows:—

(1.) That case shall be deemed wholly excepted out of the foregoing provisions of this Act, save so far as they define and give preference to and regulate the

payment of and provide for decisions respecting preferential charges, and as they relate to the duties and powers of the Committee of Adjustment, and to medals and decorations:

(2.) The duties and powers of the Committee of Adjustment in relation to the property shall, nevertheless, in the case of a regimental Paymaster, be deemed to arise in full, immediately and unconditionally on the death, and to continue notwithstanding the payment of the preferential charges by any person:

(3.) Money in the possession or under the control of a regimental Paymaster at his death shall not be considered to be comprised in his effects for the purposes of this Act:

(4.) The surplus in the hands of the Committee of Adjustment shall, in the case of a regimental Paymaster, be dealt with by them as may be prescribed by royal warrant, and not according to the foregoing provisions of this Act.

Administrators General and other official administrators.

Restriction on interposition of official administrators.

XXI. An Administrator General for a Presidency in *India*, or a Registrar of any Court in *India* or in any of Her Majesty's colonies or possessions abroad, or any other official administrator, notwithstanding any law regulating his office independently of this Act, shall not interpose in any manner in relation to any property of an officer or soldier dying on service, except in the cases expressly provided for in this Act, or unless expressly required to do so by a Committee of Adjustment, or some other officers or persons, acting under this Act.

Duties of administrators.

Where, under this Act, any property comes to the hands of any such Administrator General, Registrar, or other official administrator, he shall administer the same in accordance with the provisions of this Act relating to preferential charges, and the other provisions of this Act, and, subject thereto, according to the law regulating his office independently of this Act.

Where any money coming, under this Act, to the hands of any such Administrator General remains in his hands after discharge of all debts and liabilities, he shall remit the same to the Secretary of State for *India* in Council at such time and in such manner as he directs, to be retained or to be paid over to the Secretary of State for War, as the case may require, and to be disposed of, according to the provisions of this Act, as the residue or part of the residue of the property of the deceased.

An Administrator General shall not be entitled to take, and it shall not be lawful for him to take, a percentage on the property of an officer or soldier dying on service, exceeding three *per centum* on the gross amount coming to his hands if preferential charges have been previously paid, or on the gross amount remaining in his hands after payment by him of preferential charges, as the case may be.

Miscellaneous.

Money remitted not to be assets in place where remitted to.

XXII. Any property of an officer or soldier dying on service, coming, under this Act, to the hands of any Paymaster or other officer or person, shall not, by reason of so coming, be deemed assets or effects at the place in which that Paymaster or other officer or person is stationed or resides, and it shall not be necessary by reason thereof that representation should be taken out in respect of that property for that place.

Where, under this Act, any such property is to be paid or delivered over to the representative of a deceased officer or soldier or other person entitled to receive the same,—

if such payment or delivery is to be made in *India*, then the Military Secretary to the Government of the Presidency in which the deceased was quartered,—

and if such payment is to be made elsewhere than in *India*, then the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be,—

may order that such property be transmitted to any other place where the same can be more conveniently paid or delivered over as aforesaid; and the obedience to any such order by any Paymaster or other officer or person in whose hands such property is, shall be a sufficient discharge to him, and he shall not be liable in any manner by reason of such property having been in his hands and having been transmitted under any such order.

Deduction of arrears of subscription to military and orphan funds.

XXIII. Nothing in this Act shall be deemed to prevent the Secretary of State for *India* in Council, on the death of an officer of Her Majesty's *Indian* army, from deducting in the Pay office from any arrear of pay due to the deceased the amount of any arrears of subscription due by the deceased to the military and orphan funds, or either of them.

Exemptions from duty.

XXIV. The personal estate of an officer or soldier dying on service in *India*, not exceeding one hundred pounds after payment of preferential charges, and administered and disposed of under this Act without representation being taken out, shall not be liable to the payment of any duty either in *India* or in the United Kingdom; but this provision shall not affect any exemption from duty existing independently hereof.

Creditor administering not entitled to claim property.

XXV. A creditor, as such, shall not be deemed a person entitled to take out representation to the deceased within the meaning of this Part of this Act; nor shall a creditor taking out representation as such be entitled by virtue of such representation to claim from the Secretary of State for War, or the Secretary of State for *India* in Council, any part of the property of the deceased.

Deposit in Court of probate, &c. of original Wills in hands of Secretary of State and declarations of intestacy.

XXVI. Where any original Will of an officer or soldier dying on service comes to the hands of the Secretary of State for War, or of the Secretary of State for *India* in Council, and representation under the same is not taken out, then the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, may cause the same to be deposited as follows:

Where the domicil of the testator was in *England*, or in *India*, or in any of Her Majesty's colonies or possessions abroad, or in any foreign country, then in the

place for the time being appointed in *London* or *Middlesex* for the deposit of original Wills brought into the Court of probate:

Where the domicil of the testator was in *Ireland*, then in the place for the time being appointed in *Dublin* for the deposit of original Wills brought into the Court of probate:

Where the domicil of the testator was in *Scotland*, then in the office of the commissary clerk of the Commissary Court of the county of *Edinburgh*.

Where an officer or soldier dies on service intestate, and under this Act any residue of his property comes to the hands of the Secretary of State for War, or of the Secretary of State for *India* in Council, for disposal, and representation to the deceased is not taken out, then the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, may, if it seems fit, cause a declaration of the intestacy of such officer or soldier to be deposited in the place or office where the original Will of such officer or soldier (if any) would be deposited as aforesaid.

In every such case the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, may cause to be deposited together with such original Will or declaration of intestacy an inventory showing the personal property of the deceased, and the application thereof, as far as the same may be known.

Where the original Will of any officer or soldier who has, before the commencement of this Part of this Act, died on service is in the hands of the Secretary of State for War, or of the Secretary of State for *India* in Council, he may, if it seems fit, at any time cause the same to be deposited in the place or office where the original Will of such officer or soldier would be deposited as aforesaid if he had died after the commencement of this Part of this Act.

Every such original Will, declaration of intestacy, and inventory shall be preserved and dealt with, and may be inspected, subject and according to any general or other rules or orders for regulating such preservation, dealing, and inspection, and for fixing any fees to be payable in respect thereof, as may be from time to time made in that behalf by the Court, Judge, or other authority empowered to make general or other rules or orders for like purposes in relation to other documents deposited in the same place or office.

Part II.—*Desertion and other Cases.*

XXVII. In every case of desertion, such committee of officers as may be prescribed by royal warrant, according to the circumstances of different cases, hereinafter called the Committee of Adjustment, shall immediately secure all such of the deserter's effects as— On desertion, committee of officers to sell effects, and pay expenses.

Where the desertion occurs in the United Kingdom, are in camp or quarters; and

Where the desertion occurs out of the United Kingdom, are within the station, colony, or command;

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and shall forthwith make an inventory thereof, and shall, within three months after the desertion, sell or convert into money such parts of the deserter's effects as do not consist of money, and thereout pay the expenses attending the execution of the provisions of the present Section.

Application of surplus.

XXVIII. The surplus remaining after such payment shall be liable to be applied in or towards payment of any such expenses and debts incurred and owing by the deserter as would, under Part I of this Act, be preferential charges on his personal property in case he had died on service, with the like preference, in the like order, and subject to the like provision for decision of doubt or difference, as would in that case apply, as nearly as may be, *mutatis mutandis*.

The Committee of Adjustment shall apply the same accordingly, and then shall dispose of any property remaining in their hands according to regulations laid down by royal warrant.

Absence without leave.

XXIX. For the purposes of this Part of this Act, absence without leave for twenty-one days shall be deemed included in the term desertion.

Act to apply to apprentices and felons.

XXX. The provisions of this Part of this Act shall apply, as nearly as may be, *mutatis mutandis*, in the case of a soldier delivered up as an apprentice, or convicted of felony.

Part III.—*Insanity.*

In case of insanity, committee of officers to secure effects.

XXXI. Where an officer or soldier is removed, put on half pay, or discharged, on the ground of insanity, such committee of officers as may be prescribed by royal warrant, according to the circumstances of different cases, hereinafter called the Committee of Adjustment, shall immediately secure all such of his effects as—

Where the insanity occurs during service in the United Kingdom, are in camp or quarters; and

Where the insanity occurs during service out of the United Kingdom, are within the station, colony, or command.

Liability of effects to be applied as for payment of preferential charges.

XXXII. The effects of such an officer or soldier shall be liable to be applied in or towards payment of any such expenses and debts incurred and owing by him as would, under Part I of this Act, be preferential charges on his personal property in case he had died on service, with the like preference, in the like order, and subject to the like provision for decision of doubt or difference, as would in that case apply, as nearly as may be, *mutatis mutandis*.

If preferential charges not paid, power for committee to sell and apply proceeds.

XXXIII. If any person who would, if such officer or soldier were dead, be entitled to take out representation to him (otherwise than as a creditor), or his wife (if any), or any near relative, pays in full the expenses and debts aforesaid, the Committee of Adjustment shall not further interfere in relation to the property.

If such payment is not made, then, within one month after the removal, putting on half pay, or discharge, is known at the quarters where the effects are, the Committee of Adjustment may and shall sell or convert into money such parts of the effects as do not consist of money, and, after paying thereout the expenses attending the discharge of their duties, shall pay thereout the expenses and debts aforesaid, and shall dispose of any property then remaining in their hands as may be prescribed by royal warrant, to the end that the same may be applied for the benefit of the officer or soldier to whom it belongs.

Power to War or India office to apply officer's half pay, in case of insanity, for his benefit.

XXXIV. Where an officer is put on half pay on the ground of insanity, the Secretary of State for War, or the Secretary of State for *India* in Council, as the case may be, may, if it seems fit, pay to the person charged with the care and maintenance of such officer all or any part of his half pay, to be applied for his care and maintenance.

Part IV.—*General Provisions.*

Validity of payments, sales, &c., under this Act.

XXXV. Every payment or application of money, and every sale or other disposition of property, made by the Secretary of State for War, or by the Secretary of State for *India* in Council, or by any Committee of Adjustment, or by any Paymaster or other officer or person, in pursuance of this Act, or of any royal warrant for carrying this Act into effect, shall be good and valid as against all persons whomsoever; and every such Secretary of State, and every officer belonging to any such committee, and every such Paymaster, officer, or person as aforesaid, shall be, by virtue of this Act, absolutely discharged from all liability in respect of the money or other property so paid, applied, or disposed of.

Indemnity to officers and others acting under it.

Further regulations by royal warrant.

XXXVI. Her Majesty may from time to time, by warrant under the royal sign manual, do all such things as are hereinbefore directed or authorized to be done by royal warrant, and also prescribe such Regulations as may seem fit, for the better execution of any of the purposes of this Act.

Every royal warrant made under this Act shall be laid before both Houses of Parliament within fourteen days after the making thereof, if Parliament is then sitting, and if not, then within fourteen days after the commencement of the next sitting of Parliament.

Commencement of Act.

XXXVII. This Act shall, with respect to the making of any royal warrant under it, take effect from its passing, and in all other respects shall take effect from the time appointed for its commencement in the royal warrant first made under it.

SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Title.	Extent of Repeal.
58 Geo. 3, c. 73	An Act for regulating the payment of regimental debts and the distribution of the effects of officers and soldiers dying in service, and the receipt of sums due to soldiers.	Sections one, two, and three.
6 Geo. 4, c. 61	An Act to amend two Acts; of the fifty-eighth year of His late Majesty, for regulating the payment of regimental debts and the distribution of the effects of officers and soldiers dying in service, and the receipt of sums due to soldiers; and of the fourth year of His present Majesty, for punishing mutiny and desertion of officers and soldiers in the service of the East India Company.	The whole.
11 Geo. 4 & 1 Will. 4, c. 41.	An Act to make further regulations with respect to army pensioners.	Section five, except as to pension or prize money.
20 & 21 Vic., c. 66... ...	An Act for punishing mutiny and desertion of officers and soldiers in the service of the East India Company, and for regulating in such service the payment of regimental debts and the distribution of the effects of officers and soldiers dying in the service.	Sections sixty-one to sixty-six, both inclusive.
26 & 27 Vic., c. 8	An Act for punishing mutiny and desertion, and for the better payment of the army and their quarters.	Sections ninety-eight to one hundred and two, both inclusive.

26 & 27 VICTORIÆ, CAP. LXXIII.

AN ACT *to give further facilities to the holders of India Stock.*

[28*th July* 1863.]

(1.) [Short title.]
(2.) [Definition of terms.]
(3.) [Right to certificate of title to India stock.]
(4.) [Restriction as to trustees taking certificates of title.]
(5.) [General provisions as to certificates of title.]
(6.) [Reconversion of the certificate to stock.]
(7.) [Fees in respect of dealings with stock under this Act.]
(8.) [Remuneration to the Bank.]
(9.) [General regulations with respect to certificates of title.]
(10.) [Income Tax.]
(11.) [Unclaimed dividends.]

(12.) [Shares in India stock outstanding to cease to be transferable, &c.]
(13.) [Punishment of forgery.]
(14.) [Punishment of personation.]
(15.) [Punishment of engraving, &c.]
(16.) [As to the signature and countersignature of documents in the department of the Secretary of State for India.]

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26 & 27 VICTORIÆ, CAP. LXXVI.

An Act *to determine the time at which Letters Patent shall take effect in the colonies.*

[28*th July* 1863.]

Preamble.

Whereas Her Majesty hath from time to time caused to be made under the great seal of the United Kingdom of *Great Britain* and *Ireland* divers Letters Patent intended to take effect within Her Majesty's colonies and possessions beyond the seas: And whereas doubts are entertained respecting the period at which such Letters Patent have taken or may hereafter take effect within such colonies and possessions, and it is expedient that such doubts should be removed: Be it therefore enacted &c.

Existing Letters Patent not to take effect in colonies till published or acted on.

Acts done under such Letters Patent valid.

I. No such Letters Patent heretofore made shall (unless otherwise provided therein or by other lawful authority) be deemed to have taken or shall take effect in any such colony or possession as aforesaid until the same were or shall be publicly made known or acted upon therein: Provided that any act or thing heretofore done or purporting to have been done in pursuance or under authority of such Letters Patent shall be as valid and effectual as if the same Letters Patent had taken effect at the date of the making thereof.

Future Letters Patent not to take effect in colony till publication.

II. No such Letters Patent hereafter to be made shall (unless otherwise provided therein or by other lawful authority) take effect in any such colony or possession until the making of the same shall have been signified therein by proclamation or other public notice.

Appointments by Letters Patent to be void unless published within six or nine months.

III. Any such Letters Patent by which any person may be hereafter appointed to any office or employment within any of such colonies or possessions shall (unless otherwise provided therein or by other lawful authority) become null and void in respect of such colony, unless the same shall be so signified as aforesaid within the following period; that is to say, within nine calendar months in case such colony or possession shall be to the eastward of *Bengal* in the *East Indies*, or to the west of *Cape Horn* in *South America*, or in any other case within six months after the making thereof.

9 & 10 Vic., c. 91 repealed.

IV. The Act, Chapter ninety-one, of the ninth and tenth years of Her Majesty, intituled an Act to continue certain Patent Commissions until the exhibition of the Commissions revoking them, is hereby repealed.

Period of Act coming into operation.

V. This Act shall take effect in each of Her Majesty's colonies and possessions so soon as the same shall be proclaimed therein by the officer administering the government thereof.

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26 & 27 VICTORIÆ, CAP. CXXI.

An Act to establish the validity of acts performed in Her Majesty's possessions abroad by certain Clergymen ordained in foreign parts, and to extend the powers of colonial legislatures with respect to such Clergymen.

[28*th July* 1863.]

Preamble.

26 Geo. 3., c. 84.

19 & 20 Vic., c. 20 (Barbadoes.)

Whereas by the third Section of an Act passed in the twenty-sixth year of His late Majesty King *George* the Third, Chapter eighty-four, intituled an Act to empower the Archbishop of *Canterbury* or the Archbishop of *York* for the time being to consecrate to the office of a Bishop persons being subjects or citizens of countries out of His Majesty's dominions, it was enacted that no person or persons admitted to the order of deacon or priest by any Bishop or Bishops so consecrated, or by the successor or successors of any Bishop or Bishops so consecrated, should be thereby enabled to exercise his or their respective office or offices within His Majesty's dominions: And whereas by an Act passed by the legislature of *Barbadoes* in the nineteenth and twentieth year of Her Majesty Queen *Victoria*, Chapter twenty, intituled an Act to enable the Reverend *Joseph Shepherd Mayers* to exercise his office as a Clergyman within this island, it was enacted, that it should be lawful for the said Reverend *Joseph Shepherd Mayers* to exercise the office of priest, and the said Reverend *Joseph Shepherd Mayers* hath from that time exercised the said office in the island of *Barbadoes*: And whereas it is apprehended that divers persons having been ordained by such Bishop or Bishops as aforesaid or their successors have at times exercised their respective offices in *British* colonies: And whereas doubts are entertained respecting the validity of the aforesaid Act passed by the legislature of *Barbadoes*, and of the marriages solemnized and other acts performed by the said Reverend *Joseph Shepherd Mayers* under authority of the said Act, or by other persons so ordained as aforesaid, and it is advisable to remove such doubts, and to define the power of colonial legislatures in this respect: Be it hereby enacted &c.

Colonial legislatures may authorize exercise of clerical functions by persons ordained by Bishops consecrated under 26 Geo. 3., c. 84

I. It shall be lawful for the legislature of any of Her Majesty's possessions abroad, by any law or laws to be by them passed, to authorize any persons admitted to the order of priest or deacon by any of such Bishops as are mentioned in the first-recited Act to exercise their respective offices in such possession, anything in the aforesaid Act of Parliament to the contrary notwithstanding, and all laws heretofore passed by any such legislature for that purpose shall be and the same are hereby declared to be valid and effectual to all intents and purposes.

Acts heretofore performed by such persons to be valid.

II. All acts heretofore performed in any *British* colony by any person having been admitted to the office of priest or deacon by any of such Bishops as aforesaid or of their successors shall be as valid and effectual at law for all purposes whatever as if such person had been so admitted by a Bishop or Bishops of the United Church of *Great Britain* and *Ireland*.

27 & 28 VICTORIÆ, CAP. II.

AN ACT *to enable the Right Honorable Sir John Laird Mair Lawrence to receive the full benefit of the salary of Governor General of India, notwithstanding his being in receipt of an annuity granted to him by the East India Company.*

[18*th March* 1864.]

(1.) [Power to Secretary of State for India to pay to Sir J. L. M. Lawrence the full amount of salary as Governor General of India, in addition to annuity granted by East India Company].

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27 & 28 VICTORIÆ, CAP. XVI.

AN ACT *to confirm the appointment of Henry Pendock St. George Tucker Esquire as one of the Judges of Her Majesty's High Court at Bombay, and to establish the validity of certain proceedings therein.*

[13*th May* 1864.]

(1.) [Appointment confirmed.]
(2.) [All acts, &c. done by H. P. St. G. Tucker valid.]
(3.) [No action to be brought in consequence of such acts.]

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27 & 28 VICTORIÆ, CAP. XXV.

AN ACT *for regulating Naval Prize of War.*

[23*rd June* 1864.]

Preamble

WHEREAS it is expedient to enact permanently, with amendments, such provisions concerning Naval Prize, and matters connected therewith, as have heretofore been usually passed at the beginning of a war: Be it therefore enacted &c.

Preliminary.

Short title

I. This Act may be cited as The Naval Prize Act, 1864.

Interpretation of terms.

II. In this Act—

The term "the Lords of the Admiralty" means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral:

The term "the High Court of Admiralty" means the High Court of Admiralty of *England:*

The term "any of Her Majesty's Ships of War" includes any of Her Majesty's vessels of War, and any hired armed ship or vessel in Her Majesty's service:

The term "officers and crew" includes flag officers, commanders, and other officers, engineers, seamen, marines, soldiers, and others on board any of Her Majesty's Ships of War:

The term "ship" includes vessel and boat, with the tackle, furniture, and apparel of the ship, vessel, or boat:

The term "ship papers" includes all books, passes, sea briefs, charter parties, bills of lading, cockets, letters, and other documents and writings delivered up or found on board a captured ship:

The term "goods" includes all such things as are by the course of Admiralty and Law of Nations the subject of adjudication as prize (other than ships).

I.—Prize Courts.

High Court of Admiralty and other Courts to be prize Courts for purposes of Act.

III. The High Court of Admiralty, and every Court of Admiralty or of Vice-Admiralty, or other Court exercising admiralty jurisdiction in Her Majesty's dominions, for the time being authorized to take cognizance of and judicially proceed in matters of prize, shall be a Prize Court within the meaning of this Act.

Every such Court, other than the High Court of Admiralty, is comprised in the term "Vice-Admiralty Prize Court," when hereafter used in this Act.

High Court of Admiralty.

Jurisdiction of High Court of Admiralty.

IV. The High Court of Admiralty shall have jurisdiction throughout Her Majesty's dominions as a Prize Court.

The High Court of Admiralty as a Prize Court shall have power to enforce any order or decree of a Vice-Admiralty Prize Court, and any order or decree of the Judicial Committee of the Privy Council in a prize appeal.

Appeal; Judicial Committee.

Appeal to Queen in Council, in what cases.

V. An appeal shall lie to Her Majesty in Council from any order or decree of a Prize Court, as of right in case of a final decree, and in other cases with the leave of the Court making the order or decree.

Every appeal shall be made in such manner and form and subject to such regulations (including regulations as to fees, costs, charges, and expenses) as may for the time being be directed by order in Council, and in the absence of any such order, or so far as any such order does not extend, then in such manner and form and subject to such regulations as are for the time being prescribed or in force respecting maritime causes of appeal.

Jurisdiction of Judicial Committee in prize appeals.

VI. The Judicial Committee of the Privy Council shall have jurisdiction to hear and report on any such appeal, and may therein exercise all such powers as for the time being appertain to them in respect of appeals from any Court of admiralty jurisdiction, and all such powers as are under this Act vested in the High Court of Admiralty, and all such powers as were wont to be exercised by the Commissioners of appeal in prize causes.

Custody of processes, papers, &c.

VII. All processes and documents required for the purposes of any such appeal shall be transmitted to and shall remain in the custody of the Registrar of Her Majesty in prize appeals.

Limit of time for appeal.

VIII. In every such appeal the usual inhibition shall be extracted from the registry of Her Majesty in prize appeals within three months after the date of the order or decree appealed from if the appeal be from the High Court of Admiralty, and within six months after that date if it be from a Vice-Admiralty Prize Court.

The Judicial Committee may, nevertheless, on sufficient cause shown, allow the inhibition to be extracted and the appeal to be prosecuted after the expiration of the respective periods aforesaid.

Vice-Admiralty Prize Courts.

Enforcement of orders of High Courts, &c.

IX. Every Vice-Admiralty Prize Court shall enforce within its jurisdiction all orders and decrees of the Judicial Committee in prize appeals and of the High Court of Admiralty in prize causes.

Salaries of Judges of Vice-Admiralty Prize Courts.

X. Her Majesty in Council may grant to the Judge of any Vice-Admiralty Prize Court a salary not exceeding five hundred pounds a year, payable out of money provided by Parliament, subject to such regulations as seem meet.

A Judge to whom a salary is so granted shall not be entitled to any further emolument, arising from fees or otherwise, in respect of prize business transacted in his Court.

An account of all such fees shall be kept by the Registrar of the Court, and the amount thereof shall be carried to and form part of the consolidated fund of the United Kingdom.

Retiring pensions of Judges, as in 22 & 23 Vic., c. 26.

XI. In accordance, as far as circumstances admit, with the principles and regulations laid down in The Superannuation Act, 1859, Her Majesty in Council may grant to the Judge of any Vice-Admiralty Prize Court an annual or other allowance, to take effect on the termination of his service, and to be payable out of money provided by Parliament.

Returns from Vice-Admiralty Prize Courts.

XII. The Registrar of every Vice-Admiralty Prize Court shall, on the first day of *January* and first day of *July* in every year, make out a return (in such form as the Lords of the Admiralty from time to time direct) of all cases adjudged in the Court since the last half-yearly return, and shall with all convenient speed send the same to the Registrar of the High Court of Admiralty, who shall keep the same in the registry of that Court, and who shall, as soon as conveniently may be, send a copy of the returns of each half-year to the Lords of the Admiralty, who shall lay the same before both Houses of Parliament.

General.

General orders for Prize Courts.

XIII. The Judicial Committee of the Privy Council, with the Judge of the High Court of Admiralty, may from time to time frame general orders for regulating (subject to the

provisions of this Act) the procedure and practice of Prize Courts, and the duties and conduct of the officers thereof and of the practitioners therein, and for regulating the fees to be taken by the officers of the Courts, and the costs, charges, and expenses to be allowed to the practitioners therein.

Any such general orders shall have full effect, if and when approved by Her Majesty in Council, but not sooner or otherwise.

Every order in Council made under this Section shall be laid before both Houses of Parliament.

Every such order in Council shall be kept exhibited in a conspicuous place in each Court to which it relates.

Prohibition of officer of Prize Court acting as proctor, &c.

XIV. It shall not be lawful for any Registrar, Marshal, or other officer of any Prize Court, or for the Registrar of Her Majesty in prize appeals, directly or indirectly to act or be in any manner concerned as advocate, proctor, solicitor, or agent, or otherwise, in any prize cause or appeal, on pain of dismissal or suspension from office, by order of the Court or of the Judicial Committee (as the case may require).

Prohibition of proctors being concerned for adverse parties in a cause.

XV. It shall not be lawful for any proctor or solicitor, or person practising as a proctor or solicitor, being employed by a party in a prize cause or appeal, to be employed or concerned, by himself or his partner, or by any other person, directly or indirectly, by or on behalf of any adverse party in that cause or appeal, on pain of exclusion or suspension from practice in prize matters, by order of the Court or of the Judicial Committee (as the case may require).

II.—Procedure in Prize Causes.

Proceedings by Captors.

Custody of prize ship.

XVI. Every ship taken as prize, and brought into port within the jurisdiction of a Prize Court, shall forthwith, and without bulk broken, be delivered up to the Marshal of the Court.

If there is no such Marshal, then the ship shall be in like manner delivered up to the principal officer of Customs at the port.

The ship shall remain in the custody of the Marshal, or of such officer, subject to the orders of the Court.

Bringing in of ship papers.

XVII. The captors shall, with all practicable speed after the ship is brought into port, bring the ship papers into the registry of the Court.

The officer in command, or one of the chief officers of the capturing ship, or some other person who was present at the capture, and saw the ship papers delivered up or found on board, shall make oath that they are brought in as they were taken, without fraud, addition, subduction, or alteration, or else shall account on oath to the satisfaction of the Court for the absence or altered condition of the ship papers or any of them.

Where no ship papers are delivered up or found on board the captured ship, the officer in command, or one of the chief officers of the capturing ship, or some other person who was present at the capture, shall make oath to that effect.

Issue of monition.

XVIII. As soon as the affidavit as to ship papers is filed, a monition shall issue, returnable within twenty days from the service thereof, citing all persons in general to show cause why the captured ship should not be condemned.

Examinations on standing interrogatories.

XIX. The captors shall, with all practicable speed after the captured ship is brought into port, bring three or four of the principal persons belonging to the captured ship before the Judge of the Court or some person authorized in this behalf, by whom they shall be examined on oath on the standing interrogatories.

The preparatory examinations on the standing interrogatories shall, if possible, be concluded within five days from the commencement thereof.

Adjudication by Court.

XX. After the return of the monition, the Court shall, on production of the preparatory examinations and ship papers, proceed with all convenient speed either to condemn or to release the captured ship.

Further proof.

XXI. Where, on production of the preparatory examinations and ship papers, it appears to the Court doubtful whether the captured ship is good prize or not, the Court may direct further proof to be adduced, either by affidavit or by examination of witnesses, with or without pleadings, or by production of further documents; and on such further proof being adduced the Court shall with all convenient speed proceed to adjudication.

Custody, &c., of ships of war.

XXII. The foregoing provisions, as far as they relate to the custody of the ship, and to examination on the standing interrogatories, shall not apply to ships of war taken as prize.

Claim.

Entry of claim; security for costs.

XXIII. At any time before final decree made in the cause, any person claiming an interest in the ship may enter in the registry of the Court a claim, verified on oath.

Within five days after entering the claim, the claimant shall give security for costs in the sum of sixty pounds; but the Court shall have power to enlarge the time for giving security, or to direct security to be given in a larger sum, if the circumstances appear to require it.

Appraisement.

Power to Court to direct appraisement.

XXIV. The Court may, if it thinks fit, at any time direct that the captured ship be appraised.

Every appraisement shall be made by competent persons sworn to make the same according to the best of their skill and knowledge.

Delivery on Bail.

Power to Court to direct delivery to claimant on bail.

XXV. After appraisement, the Court may, if it thinks fit, direct that the captured ship be delivered up to the claimant, on his giving security to the satisfaction of the Court to pay to the captors the appraised value thereof in case of condemnation.

Sale.

Power to Court to order sale.

XXVI. The Court may at any time, if it thinks fit, on account of the condition of the captured ship, or on the application of a claimant, order that the captured ship be appraised as aforesaid (if not already appraised), and be sold.

Sale on condemnation.

XXVII. On or after condemnation the Court may, if it thinks fit, order that the ship be appraised as aforesaid (if not already appraised), and be sold.

How sales to be made.

XXVIII. Every sale shall be made by or under the superintendence of the Marshal of the Court or of the officer having the custody of the captured ship.

Payment of proceeds to Paymaster General or official accountant.

XXIX. The proceeds of any sale, made either before or after condemnation, and after condemnation the appraised value of the captured ship, in case she has been delivered up to a claimant on bail, shall be paid under an order of the Court either into the Bank of *England* to the credit of Her Majesty's Paymaster General, or into the hands of an official accountant (belonging to the Commissariat or some other Department) appointed for this purpose by the Commissioners of Her Majesty's treasury or by the Lords of the Admiralty, subject in either case to such regulations as may from time to time be made, by order in council, as to the custody and disposal of money so paid.

Small armed Ships.

One adjudication as to several small ships.

XXX. The captors may include in one adjudication any number, not exceeding six, of armed ships not exceeding one hundred tons each, taken within three months next before institution of proceedings.

Goods.

Application of foregoing provisions to prize goods.

XXXI. The foregoing provisions relating to ships shall extend and apply, *mutatis mutandis*, to goods taken as prize on board ship; and the Court may direct such goods to be unladen, inventoried, and warehoused.

Monition to Captors to proceed.

Power to Court to call on captors to proceed to adjudication.

XXXII. If the captors fail to institute or to prosecute with effect proceedings for adjudication, a monition shall, on the application of a claimant, issue against the captors, returnable within six days from the service thereof, citing them to appear and proceed to adjudication; and on the return thereof the Court shall either forthwith proceed to adjudication or direct further proof to be adduced as aforesaid, and then proceed to adjudication.

Claim on Appeal.

Person intervening on appeal to enter claim.

XXXIII. Where any person, not an original party in the cause, intervenes on appeal, he shall enter a claim, verified on oath, and shall give security for costs.

III.—Special Cases of Capture.

Land Expeditions.

Jurisdiction of Prize Court in case of capture in land expedition.

XXXIV. Where, in an expedition of any of Her Majesty's naval or naval and military forces against a fortress or possession on land, goods belonging to the State of the enemy or to a public trading Company of the enemy exercising powers of government are taken in the fortress or possession, or a ship is taken in waters defended by or belonging to the fortress or possession, a Prize Court shall have jurisdiction as to the goods or ship so taken, and any goods taken on board the ship, as in case of prize.

Conjunct Capture with Ally.

Jurisdiction of Prize Court in case of expedition with ally.

XXXV. Where any ship or goods is or are taken by any of Her Majesty's naval or naval and military forces while acting in conjunction with any forces of any of Her Majesty's allies, a Prize Court shall have jurisdiction as to the same as in case of prize, and shall have power, after condemnation, to apportion the due share of the proceeds to Her Majesty's ally, the proportionate amount and the disposition of which share shall be such as may from time to time be agreed between Her Majesty and Her Majesty's ally.

Joint Capture.

Restriction on petitions by asserted joint captors.

XXXVI. Before condemnation, a petition on behalf of asserted joint captors shall not (except by special leave of the Court) be admitted, unless and until they give security to the satisfaction of the Court to contribute to the actual captors a just proportion of any costs, charges, or expenses or damages that may be incurred by or awarded against the actual captors on account of the capture and detention of the prize.

After condemnation, such a petition shall not (except by special leave of the Court) be admitted unless and until the asserted joint captors pay to the actual captors a just proportion of the costs, charges, and expenses incurred by the actual captors in the case, and give such security as aforesaid, and show sufficient cause to the Court why their petition was not presented before condemnation.

Provided, that nothing in the present Section shall extend to the asserted interest of a flag officer claiming to share by virtue of his flag.

Offences against Law of Prize.

In case of offence by captors, prize to be reserved for Crown.

XXXVII. A Prize Court, on proof of any offence against the Law of Nations, or against this Act, or any Act relating to naval discipline, or against any order in council or royal proclamation, or of any breach of Her Majesty's instructions relating to prize, or of any act of disobedience to the orders of the Lords of the Admiralty, or to the command of a superior officer, committed by the captors in relation to any ship or goods taken as prize, or in relation to any person on board any such ship, may, on condemnation, reserve the prize to Her Majesty's disposal, notwithstanding any grant that may have been made by Her Majesty in favour of captors.

Pre-emption.

Purchase by Admiralty for public service of stores on board foreign ships.

XXXVIII. Where a ship of a foreign nation passing the seas laden with naval or victualling stores intended to be carried to a port of any enemy of Her Majesty is taken and brought into a port of the United Kingdom, and the purchase for the service of Her Majesty of the stores on board the ship appears to the Lords of the Admiralty expedient without the condemnation thereof in a Prize Court, in that case the Lords of the Admiralty may purchase, on the account or for the service of Her Majesty, all or any of the stores on board the ship; and the Commissioners of Customs may permit the stores purchased to be entered and landed within any port.

Capture by Ship other than a Ship of War.

Prizes taken by ships other than ships of war to be droits of Admiralty.

XXXIX. Any ship or goods taken as prize by any of the officers and crew of a ship other than a ship of war of Her Majesty shall, on condemnation, belong to Her Majesty in Her office of Admiralty.

IV.—Prize Salvage.

Salvage to re-captors of British ship or goods from enemy.

XL. Where any ship or goods belonging to any of Her Majesty's subjects, after being taken as prize by the enemy, is or are retaken from the enemy by any of Her Majesty's ships of war, the same shall be restored by decree of a Prize Court to the owner, on his paying as prize salvage one-eighth part of the value of the prize to be decreed and ascertained by the Court, or such sum not exceeding one-eighth part of the estimated value of the prize as may be agreed on between the owner and the recaptors, and approved by order of the Court; provided, that where the recapture is made under circumstances of special difficulty or danger, the Prize Court may, if it thinks fit, award to the recaptors as prize salvage a larger part than one-eighth part, but not exceeding in any case one-fourth part, of the value of the prize.

Provided also, that where a ship after being so taken is set forth or used by any of Her Majesty's enemies as a ship of war, this provision for restitution shall not apply, and the ship shall be adjudicated on as in other cases of prize.

Permission to recaptured ship to proceed on voyage.

XLI. Where a ship belonging to any of Her Majesty's subjects, after being taken as prize by the enemy, is retaken from the enemy by any of Her Majesty's ships of war, she may, with the consent of the recaptors, prosecute her voyage, and it shall not be necessary for the recaptors to proceed to adjudication till her return to a port of the United Kingdom.

The master or owner, or his agent, may, with the consent of the recaptors, unload and dispose of the goods on board the ship before adjudication.

In case the ship does not, within six months, return to a port of the United Kingdom, the recaptors may nevertheless institute proceedings against the ship or goods in the High Court of Admiralty, and the Court may thereupon award prize salvage as afore-

said to the re-captors, and may enforce payment thereof, either by warrant of arrest against the ship or goods, or by monition and attachment against the owner.

V.—Prize Bounty.

Prize bounty to officers and crew present at engagement with an enemy.

XLII. If, in relation to any war, Her Majesty is pleased to declare, by proclamation or order in council, Her intention to grant prize bounty to the officers and crew of Her ships of war, then such of the officers and crew of any of Her Majesty's ships of war as are actually present at the taking or destroying of any armed ship of any of Her Majesty's enemies shall be entitled to have distributed among them as prize bounty a sum calculated at the rate of five pounds for each person on board the enemy's ship at the beginning of the engagement.

Ascertainment of amount of prize bounty by decree of Prize Court.

XLIII. The number of the persons so on board the enemy's ship shall be proved in a Prize Court, either by the examinations on oath of the survivors of them, or of any three or more of the survivors, or if there is no survivor by the papers of the enemy's ship, or by the examinations on oath of three or more of the officers and crew of Her Majesty's ship, or by such other evidence as may seem to the Court sufficient in the circumstances.

The Court shall make a decree declaring the title of the officers and crew of Her Majesty's ship to the prize bounty, and stating the amount thereof.

The decree shall be subject to appeal as other decrees of the Court.

Payment of prize bounty awarded.

XLIV. On production of an official copy of the decree, the Commissioners of Her Majesty's treasury shall, out of money provided by Parliament, pay the amount of prize bounty decreed, in such manner as any order in council may from time to time direct.

VI.—Miscellaneous Provisions.

Ransom.

Power for regulating ransom by order in council.

XLV. Her Majesty in Council may from time to time, in relation to any war, make such orders as may seem expedient, according to circumstances, for prohibiting or allowing, wholly or in certain cases, or subject to any conditions or regulations or otherwise, as may from time to time seem meet, the ransoming or the entering into any contract or agreement for the ransoming of any ship or goods belonging to any of Her Majesty's subjects, and taken as prize by any of Her Majesty's enemies.

Any contract or agreement entered into, and any bill, bond, or other security given for ransom of any ship or goods, shall be under the exclusive jurisdiction of the High Court of Admiralty as a Prize Court (subject to appeal to the Judicial Committee of the Privy Council), and if entered into or given in contravention of any such order in council shall be deemed to have been entered into or given for an illegal consideration.

If any person ransoms or enters into any contract or agreement for ransoming any ship or goods, in contravention of any such order in council, he shall for every such

offence be liable to be proceeded against in the High Court of Admiralty at the suit of Her Majesty in Her office of Admiralty, and on conviction to be fined, in the discretion of the Court, any sum not exceeding five hundred pounds.

Convoy.

Punishment of masters of merchant vessels under convoy disobeying orders or deserting convoy.

XLVI. If the master or other person having the command of any ship of any of Her Majesty's subjects, under the convoy of any of Her Majesty's ships of war, wilfully disobeys any lawful signal, instruction, or command of the Commander of the convoy, or without leave deserts the convoy, he shall be liable to be proceeded against in the High Court of Admiralty at the suit of Her Majesty in Her office of Admiralty, and upon conviction to be fined, in the discretion of the Court, any sum not exceeding five hundred pounds, and to suffer imprisonment for such time, not exceeding one year, as the Court may adjudge.

Customs Duties and Regulations.

Prize ships and goods liable to duties and forfeiture.

XLVII. All ships and goods taken as prize and brought into a port of the United Kingdom shall be liable to and be charged with the same rates and charges and duties of Customs as under any Act relating to the Customs may be chargeable on other ships and goods of the like description; and

All goods brought in as prize which would on the voluntary importation thereof be liable to forfeiture or subject to any restriction under the laws relating to the Customs, shall be deemed to be so liable and subject, unless the Commissioners of Customs see fit to authorize the sale or delivery thereof for home use or exportation, unconditionally or subject to such conditions and regulations as they may direct.

Regulations of Customs to be observed as to prize ships and goods.

XLVIII. Where any ship or goods taken as prize is or are brought into a port of the United Kingdom, the master or other person in charge or command of the ship which has been taken or in which the goods are brought shall, on arrival at such port, bring to a the proper place of discharge, and shall, when required by any officer of Customs, deliver an account in writing under his hand concerning such ship and goods, giving such particulars relating thereto as may be in his power, and shall truly answer all questions concerning such ship or goods asked by any such officer, and in default shall forfeit a sum not exceeding one hundred pounds, such forfeiture to be enforced as forfeitures for offences against the laws relating to the Customs are enforced, and every such ship shall be liable to such searches as other ships are liable to, and the officers of the Customs may freely go on board such ship and bring to the Queen's warehouse any goods on board the same, subject, nevertheless, to such regulations in respect of ships of war belonging to Her Majesty as shall from time to time be issued by the Commissioners of Her Majesty's treasury.

Power for treasury to remit Customs duties in certain cases.

XLIX. Goods taken as prize may be sold either for home consumption or for exportation; and if in the former case the proceeds thereof, after payment of duties of Customs, are insufficient to satisfy the just and reasonable claims thereon, the Commis-

sioners of Her Majesty's treasury may remit the whole or such part of the said duties as they see fit.

Perjury.

Punishment of persons guilty of perjury.

L. If any person wilfully and corruptly swears, declares, or affirms falsely in any prize cause or appeal, or in any proceeding under this Act, or in respect of any matter required by this Act to be verified on oath, or suborns any other person to do so, he shall be deemed guilty of perjury, or of subornation of perjury (as the case may be), and shall be liable to be punished accordingly.

Limitation of Actions, &c.

Actions against persons executing Act not to be brought without notice, &c.

LI. Any action or proceeding shall not lie in any part of Her Majesty's dominions against any person acting under the authority or in the execution or intended execution or in pursuance of this Act for any alleged irregularity or trespass, or other act or thing done or omitted by him under this Act, unless notice in writing (specifying the cause of the action or proceeding) is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the action or proceeding, nor unless the action or proceeding is commenced within six months next after the act or thing complained of is done or omitted, or, in case of a continuation of damage, within six months next after the doing of such damage has ceased.

In any such action the defendant may plead generally that the act or thing complained of was done or omitted by him when acting under the authority or in the execution or intended execution or in pursuance of this Act, and may give all special matter in evidence; and the plaintiff shall not succeed if tender of sufficient amends is made by the defendant before the commencement of the action; and in case no tender has been made, the defendant may, by leave of the Court in which the action is brought, at any time pay into Court such sum of money as he thinks fit, whereupon such proceeding and order shall be had and made in and by the Court as may be had and made on the payment of money into Court in an ordinary action; and if the plaintiff does not succeed in the action, the defendant shall receive such full and reasonable indemnity as to all costs, charges, and expenses incurred in and about the action as may be taxed and allowed by the proper officer, subject to review; and though a verdict is given for the plaintiff in the action he shall not have costs against the defendant, unless the Judge before whom the trial is had certifies his approval of the action.

Any such action or proceeding against any person in Her Majesty's naval service, or in the employment of the Lords of the Admiralty, shall not be brought or instituted elsewhere than in the United Kingdom.

Petitions of Right.

Jurisdiction of High Court of Admiralty on petitions of right in certain

LII. A petition of right, under the Petitions of Right Act, 1860, (*a*) may, if the suppliant thinks fit, be intituled in the High Court of Admiralty, in case the subject-matter of the petition or any material part thereof arises out of the exercise of any belligerent right

(*a*) 23 & 24 Vic., cap. 34.—*Ed.*

cases, as in 23 & 24 Vic., c 34.

on behalf of the Crown, or would be cognizable in a Prize Court within Her Majesty's dominions if the same were a matter in dispute between private persons.

Any petition of right under the last-mentioned Act, whether intituled in the High Court of Admiralty or not, may be prosecuted in that Court, if the Lord Chancellor thinks fit so to direct.

The provisions of this Act relative to appeal, and to the framing and approval of general orders for regulating the procedure and practice of the High Court of Admiralty, shall extend to the case of any such petition of right intituled or directed to be prosecuted in that Court; and, subject thereto, all the provisions of the Petitions of Right Act, 1860, shall apply, *mutatis mutandis*, in the case of any such petition of right; and for the purposes of the present Section the terms "Court" and "Judge" in that Act shall respectively be understood to include and to mean the High Court of Admiralty and the Judge thereof, and other terms shall have the respective meanings given to them in that Act.

Orders in Council.

Power to make orders in council.

LIII. Her Majesty in Council may from time to time make such orders in council as seem meet for the better execution of this Act.

Order in council to be gazetted, &c.

LIV. Every order in council under this Act shall be published in the *London Gazette*, and shall be laid before both Houses of Parliament within thirty days after the making thereof, if Parliament is then sitting, and, if not, then within thirty days after the next meeting of Parliament.

Savings.

Not to affect rights of Crown, effect of treaties, &c.

LV. Nothing in this Act shall—

(1) give to the officers and crew of any of Her Majesty's ships of war any right or claim in or to any ship or goods taken as prize or the proceeds thereof, it being the intent of this Act that such officers and crews shall continue to take only such interest (if any) in the proceeds of prizes as may be from time to time granted to them by the Crown; or

(2) affect the operation of any existing treaty or convention with any foreign power; or

(3) take away or abridge the power of the Crown to enter into any treaty or convention with any foreign power containing any stipulation that may seem meet concerning any matter to which this Act relates; or

(4) take away, abridge, or control, further or otherwise than as expressly provided by this Act, any right, power, or prerogative of Her Majesty the Queen in right of Her Crown, or in right of Her office of Admiralty, or any right or power

of the Lord High Admiral of the United Kingdom, or of the Commissioners for executing the office of Lord High Admiral; or

(5) take away, abridge, or control, further or otherwise than as expressly provided by this Act, the jurisdiction or authority of a Prize Court to take cognizance of and judicially proceed upon any capture, seizure, prize, or reprisal of any ship or goods, and to hear and determine the same, and, according to the course of Admiralty and the Law of Nations, to adjudge and condemn any ship or goods, or any other jurisdiction or authority of or exerciseable by a Prize Court.

Commencement.

LVI. This Act shall commence on the commencement of the Naval Agency and Distribution Act, 1864. Commencement of Act.

27 & 28 VICTORIÆ, CAP. L.

AN ACT *to amend an Act of the twenty-fifth year of the reign of Her present Majesty, to provide for the registration and transfer of Indian stocks at the Bank of Ireland, and for the mutual transfer of such stocks from and to the Banks of England and Ireland respectively.*

[25*th July* 1864.]

(1). [Assignments and transfers of India stock in the Bank of Ireland valid, although not accepted in writing.]

27 & 28 VICTORIÆ, CAP. LI.

AN ACT *to vest the site of the India Office in Her Majesty for the service of the Government of India.*

[25*th July* 1864.]

(1). [On payment of 53,544*l*. 19*s*. 9*d*. by Secretary of State of India, the land described in schedule to become vested in Her Majesty, &c.],

(2). [The land, when so vested, to continue liable to the payment of a portion of rates and taxes.]

(3). [Nothing to be built on the great quadrangle.]

28 VICTORIÆ, CAP. XV.

AN ACT *to extend the term for granting fresh Letters Patent for the High Courts in India, and to make further provision respecting the territorial jurisdiction of the said Courts.*

[7*th April* 1865.]

WHEREAS it is expedient to extend the time fixed for granting fresh Letters Patent for the High Courts in *India* under the provisions of an Act passed in the twenty-fourth Preamble. 24 & 25 Vic., c. 104

and twenty-fifth years of the reign of Her present Majesty, intituled an Act for establishing High Courts of judicature in *India*, and to make further provision than is in the said Act contained for empowering the alteration from time to time of the local limits of the said High Courts, and for the exercise, in places beyond the limits of the Presidencies, or places within and for which such High Courts are established, of the jurisdiction and powers conferred by Her Majesty's Letters Patent on the said High Courts: Be it enacted &c.

Extension of time for granting fresh Letters Patent.

I. The time fixed for granting fresh Letters Patent for the High Courts in *India* by Section seventeen of the said recited Act is hereby extended to the first day of *January* one thousand eight hundred and sixty-six.

Sections 10 and 18 of 24 & 25 Vic., c. 104 repealed.

II. Sections ten and eighteen of the said Act of the twenty-fourth and twenty-fifth years of Her present Majesty are hereby repealed.

Power to the Governor General in Council to alter local limits of jurisdiction of High Courts.

III. It shall be lawful for the Governor General of *India* in Council, by order, from time to time to transfer any territory or place from the jurisdiction of one to the jurisdiction of any other of the High Courts established or to be established under the said Act, and to authorize and empower any High Court to exercise all or any portion of the jurisdiction and powers conferred or to be conferred on it by Her Majesty's Letters Patent establishing the same, or any other Letters Patent issued by Her Majesty under the provisions of the above-recited Act of the twenty-fourth and twenty-fifth years of Her Majesty, within any such portions of Her Majesty's dominions in *India*, not included within the limits of the Presidency or place or places for which such High Court was established, as the said Governor General in Council may from time to time determine, and also to exercise any such jurisdiction in respect of Christian subjects of Her Majesty resident within the dominions of such of the Princes and States of *India* in alliance with Her Majesty as the said Governor General in Council may, in manner aforesaid, from time to time determine, anything in the said recited Act of the twenty-fourth and twenty-fifth years of Her present Majesty notwithstanding.

Power to crown to disallow any order of the Governor General for that purpose.

IV. Whenever any such order has been passed by the Governor General in Council, he shall transmit to the Secretary of State for *India* an authentic copy thereof; and it shall be lawful for Her Majesty to signify, through the Secretary of State for *India* in Council, Her disallowance of such order; and such disallowance shall make void and annul such order from and after the day on which the Governor General shall make known by proclamation, or by signification to his Council, that he has received the notification of such disallowance by Her Majesty: Provided always, that all acts, proceedings, and judgments done, taken, or given by such High Courts, and not set aside by any competent authority before the promulgation or signification as aforesaid of such disallowance by Her Majesty, shall be deemed to be and to have been valid and effectual for all purposes whatever, such disallowance notwithstanding.

Time when Act shall come into operation.

V. So much of this Act as relates to the jurisdiction of the High Court shall commence and come into operation as soon as the same shall have been published by the Governor General in Council.

VI. Nothing in this Act contained shall interfere with the powers of the Governor General in Council at meetings for the purpose of making laws and regulations.

Not to interfere with certain powers of Governor General.

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28 VICTORIÆ, CAP. XVII.

AN ACT *to enlarge the powers of the Governor General of India in Council at meetings for making laws and regulations, and to amend the law respecting the territorial limits of the several Presidencies and Lieutenant Governorships in India.*

[*9th May* 1865.]

WHEREAS by an Act passed in the Session holden in the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, Chapter sixty-seven, it was, among other things, enacted, that the Governor General of *India* in Council shall have power, at meetings for the purpose of making laws and regulations, to make laws and regulations for all persons, whether *British* or Native, foreigners or others, within the *Indian* territories under the dominion of Her Majesty, and for all servants of the Government of *India* within the dominions of Princes and States in alliance with Her Majesty: And whereas it is expedient to enlarge the said power by authorizing the Governor General of *India* in Council to make laws and regulations for all *British* subjects of Her Majesty within the dominions of such Princes and States: Be it enacted &c.

Preamble.
24 & 25 Vic., c. 67.

I. The Governor General of *India* shall have power, at meetings for the purpose of making laws and regulations, to make laws and regulations for all *British* subjects of Her Majesty within the dominions of Princes and States in *India* in alliance with Her Majesty, whether in the service of the Government of *India* or otherwise.

Power to Governor General to make laws for all British subjects, whether in service of Government of India or otherwise.

II. The preceding Section shall be read with and taken as part of Section twenty-two of the said Act of the twenty-fourth and twenty-fifth years of Her Majesty, Chapter sixty-seven.

Preceding Section to be read as part of Section 22 of recited Act.

III. And whereas it is expedient to amend the law respecting the territorial limits of the several Presidencies and Lieutenant Governorships in *India*: Section eighteen of the Act of the sixteenth and seventeenth years of the reign of Her present Majesty, Chapter ninety-five, intituled an Act to provide for the Government of *India*, is hereby repealed.

Section 18 of 16 & 17 Vic., c. 95 repealed.

IV. It shall be lawful for the Governor General of *India* in Council from time to time to declare and appoint, by proclamation, what part or parts of the *Indian* territories for the time being under the dominion of Her Majesty shall be or continue subject to each of the Presidencies and Lieutenant Governorships for the time being subsisting in such territories, and to make such distribution and arrangement, or new distribution and arrangement, of such territories into or among such Presidencies and Lieutenant Governorships as to the said Governor General in Council may seem expedient.

Power to Governor General to appoint territorial limits of Presidencies, &c., by proclamation.

V. Provided always, that it shall be lawful for the Secretary of State in Council to signify to the said Governor General in Council his disallowance of any such proclama-

Power to Secretary of State in Council to signify disallow-

ance of such proclamation.

tion: And provided further, that no such proclamation for the purpose of transferring an entire zillah or district from one Presidency to another, or from one Lieutenant Governorship to another, shall have any force or validity until the sanction of Her Majesty to the same shall have been previously signified by the Secretary of State in Council to the Governor General.

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28 VICTORIÆ, CAP. XXXII.

AN ACT *to enable the Secretary of State in Council of India to acquire additional lands for improving the site of the India Office and the approaches thereto.*

[2*nd June* 1865.]

(1.) [Short title.]
(2.) [Power to Secretary of State in Council to purchase lands.]
(3.) [Lands purchased to vest in Her Majesty, &c.]
(4.) [Lands to continue subject to land tax and rates.]
(5.) [Power to enter on lands.]
(6.) [8 & 9 Vic., c. 18 and 23 & 24 Vic., c. 106 incorporated.]
(7.) [Extinction of rights-of-way and other easements.]
(8.) [Compensation in case of tenants-at-will, &c.]
(9.) [Powers for compulsory purchases limited.]
(10.) [Powers to Secretary of State in Council to execute works.]
(11.) [As to rights of Metropolitan Board of Works.]
(12.) [Exemption from Building Act.]
(13.) [Authentication of notices.]
(14.) [Orders concerning money paid into Court may be made at Chambers.]
(15.) [Penalty for obstructing the Secretary of State in Council.]
(16.) [Plan to be deposited in India office and to be open for inspection.]

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28 & 29 VICTORIÆ, CAP. CXVI.

AN ACT *to explain the Foreign Jurisdiction Act.*

[5*th July* 1865.]

Be it declared and enacted &c.

Meaning of "British colony" in 6 & 7 Vic., c. 94.

I. In the Foreign Jurisdiction Act (that is to say, the Act of the Session of the sixth and seventh years of Her Majesty's reign, Chapter ninety-four, "to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions, and to render the same more effectual)," the term "*British* colony" includes and shall be construed to include any of Her Majesty's possessions out of the United Kingdom.

Short title.

II. This Act may be cited as The Foreign Jurisdiction Act Amendment Act, 1865.

[Note.—*Here follows the Act above referred to*:—]

6 & 7 VICTORIÆ, CAP. XCIV.

An Act *to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions, and to render the same more effectual.*

[24*th August* 1843.]

Preamble.

Whereas by treaty, capitulation, grant, usage, sufferance, and other lawful means Her Majesty hath power and jurisdiction within divers countries and places out of Her Majesty's dominions: And whereas doubts have arisen how far the exercise of such power and jurisdiction is controlled by and dependent on the laws and customs of this realm, and it is expedient that such doubts should be removed: Be it therefore enacted &c.

The power acquired by Her Majesty in countries out of Her dominions shall be held on the same terms as Her Majesty's authority in the crown colonies.

I. That it is and shall be lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty now hath or may at any time hereafter have within any country or place out of Her Majesty's dominions, in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory.

Acts done in pursuance of such power to be of the same effect as if done under local laws.

II. And be it enacted, that every act, matter, and thing which may at any time be done, in pursuance of any such power or jurisdiction of Her Majesty, in any country or place out of Her Majesty's dominions, shall, in all Courts ecclesiastical and temporal and elsewhere within Her Majesty's dominions, be and be deemed and adjudged to be, in all cases and to all intents and purposes whatsoever, as valid and effectual as though the same had been done according to the local law then in force within such country or place.

Courts authorized to procure evidence of such power by application to Secretary of State.

III. And be it enacted, that if in any suit or other proceedings, whether civil or criminal, in any Court ecclesiastical or temporal within Her Majesty's dominions, any issue or question of law or of fact shall arise for the due determination whereof it shall, in the opinion of the Judge or Judges of such Court, be necessary to produce evidence of the existence of any such power or jurisdiction as aforesaid, or of the extent thereof, it shall be lawful for the Judge or Judges of any such Court, and he or they are hereby authorized, to transmit, under his or their hand and seal or hands and seals, to one of Her Majesty's principal Secretaries of State, questions by him or them properly framed respecting such of the matters aforesaid as it may be necessary to ascertain in order to the due determination of any such issue or question as aforesaid; and such Secretary of State is hereby empowered and required, within a reasonable time in that behalf, to cause proper and sufficient answers to be returned to all such questions, and to be directed to the said Judge or Judges, or their successors; and such answers shall, upon production thereof, be final and conclusive evidence, in such suit or other proceedings, of the several matters therein contained and required to be ascertained thereby.

Power to send persons charged with crimes for trial to a British colony.

IV. And whereas it may in certain cases be expedient that crimes and offences committed within such countries or places as aforesaid should be inquired of, tried, determined, and punished within Her Majesty's dominions; be it enacted, that it shall and

may be lawful for any person having authority derived from Her Majesty in that behalf, by warrant under his hand and seal, to cause any person charged with the commission of any crime or offence the cognizance whereof may at any time appertain to any Judge, Magistrate, or other officer of Her Majesty within any such country or place as aforesaid, to be sent for trial to any *British* colony (*a*) which Her Majesty may by any order or orders in council from time to time appoint in that behalf; and upon the arrival of such person within such colony it shall and may be lawful for the Supreme Court exercising criminal jurisdiction within the same to cause such person to be kept in safe and proper custody, and, so soon as conveniently may be, to inquire of, try, and determine such crime or offence, and upon conviction of the person so charged as aforesaid to correct and punish him according to the laws in force in that behalf within such colony, in the same manner as if the said crime or offence had been committed within the jurisdiction of such Supreme Court: Provided always, that before any such person shall be sent for trial to any such colony as aforesaid it shall be lawful for him to tender for examination to the Judge, Magistrate, or other officer of Her Majesty to whom the cognizance of the crime or offence with which he is charged may appertain, within the country or place where the same may be alleged to have been committed, any competent witness or witnesses, the evidence of whom he may deem material for his defence, and whom he may allege himself to be unable to produce at his trial in the said colony; and the said Judge, Magistrate, or other officer shall thereupon proceed in the examination and cross-examination of such witness or witnesses in the same manner as though the same had been tendered at a trial before such Judge, Magistrate, or other officer, and shall cause the evidence so taken to be reduced into writing, and shall transmit a copy of such evidence to the Supreme Court before which the trial of such person is to take place, together with a certificate under his hand and seal of the correctness of such copy; and thereupon it shall be lawful for the said Supreme Court, and it is hereby required, to allow so much of the evidence so taken as aforesaid as would have been admissible according to the law and practice of the said Supreme Court, had the said witness or witnesses been produced and examined at the trial before the said Court, to be read and received as legal evidence at such trial: Provided also, that if it shall be made to appear at such trial that the laws by which the person charged with any criminal act would have been tried had his trial taken place before a Judge, Magistrate, or other officer of Her Majesty in the country or place in which such act may be alleged to have been committed, vary from or are inconsistent with the laws in force within such colony, in respect either of the criminality of the act charged, or of the nature or degree of the alleged crime or offence, or of the punishment to be awarded for the same, such Supreme Court is hereby empowered and required to admit and give effect to the laws by which such person would have been so tried as aforesaid, so far as but not further or otherwise than the same relate to the criminality of such act, or to the nature or degree of such crime or offence, or to the punishment thereof: Provided also, that nothing herein contained shall be construed to alter or repeal any law, statute, or usage by virtue of which any crime or offence committed out of Her Majesty's dominions might, at the time of the passing of this Act, be inquired of, tried, determined, and punished within Her Majesty's dominions, or any part thereof, but

Before any such person shall be sent to any colony for trial, he may tender any material evidence that he would be unable to produce on trial, and which shall be taken down and transmitted.

In case the laws of the place in which the act was committed vary from those of the colony the Court may give effect o hem.

Nothing herein to alter any law respecting crimes committed out of Her Majesty's dominions.

(*a*) This includes British India, 28 & 29 Vic., c. 116.

the same shall remain in full force and effect, anything herein contained to the contrary notwithstanding.

Power to send convicts for execution or imprisonment to a British colony.

V. And whereas it may likewise in certain cases be expedient that the sentences passed within such countries and places as aforesaid at the trial of crimes and offences within the same should be carried into effect within Her Majesty's dominions; be it enacted, that if any offender shall have been sentenced to suffer death or imprisonment for or in respect of any crime or offence of which such offender shall have been lawfully convicted before any Judge, Magistrate, or other officer of Her Majesty within any such country or place as aforesaid, it shall be lawful for any person having authority derived from Her Majesty in that behalf, by warrant under his hand and seal, to cause such offender to be sent to any *British* colony (*a*) which Her Majesty may by any order or orders in council from time to time appoint in that behalf, in order that the sentence so passed upon such offender may be carried into effect within the same; and the Magistrates, gaolers, and other officers to whom it may appertain to give effect to any sentence passed by the Supreme Court exercising criminal jurisdiction within such colony are hereby empowered and required to do all acts and things necessary to carry into effect the sentence so passed upon such offender, in the same manner as though the same had been passed by such Supreme Court.

Power to transport convicts.

VI. And be it enacted, that if any offender shall have been ordered or sentenced to be transported beyond the seas by any Judge, Magistrate, or other officer of Her Majesty within any such country or place as aforesaid, or, having been adjudged to suffer death, shall have received Her Majesty's most gracious pardon upon condition of transportation beyond the seas, it shall be lawful for any person having authority derived from Her Majesty in that behalf to cause such offender to be sent to any place beyond seas to which convicts may at any time be lawfully transported from any part of Her Majesty's dominions, and, if there shall be no convenient means of transporting such offender without bringing him to *England*, to cause such offender to be brought to *England* in order to be transported, and to be imprisoned in any place of confinement provided under the authority of any law or statute relating to the transportation of offenders convicted in *England*, until such offender shall be transported or shall become entitled to his liberty; and as soon as any such offender shall have arrived at the place to which he may be transported, or, if brought to *England*, shall have been there imprisoned as aforesaid, all the provisions, rules, regulations, authorities, powers, penalties, matters, and things concerning the safe custody, confinement, treatment, and transportation of any offender convicted in *Great Britain* shall extend and be construed to extend to such offender as fully and effectually, to all intents and purposes, as if such offender had been convicted and sentenced at any Session of gaol delivery holden for any county in *England*.

Limitation of actions.

VII. And be it enacted, that if any suit or action shall be brought in any Court within Her Majesty's dominions against any person or persons for anything done in pursuance of any such power or jurisdiction of Her Majesty as aforesaid or of this Act, then and in every such case such action or suit shall be commenced or prosecuted

(*a*) See Note, p. cxxii.

within six months after the fact committed, and not afterwards, except where the cause of action shall have arisen out of Her Majesty's dominions, and then within six months after the plaintiff or plaintiffs and defendant or defendants shall have been within the jurisdiction of the Court in which the same may be brought; and the same and every such action or suit shall be brought in the county or place where the cause of action shall have arisen, and not elsewhere, except where the cause of action shall have arisen out of Her Majesty's dominions; and the defendant or defendants shall be entitled to the like notice, and shall have the like privilege of tendering amends to the plaintiff or plaintiffs, or their agent or attorney, as is provided in actions brought against any Justice of the Peace for acts done in the execution of his office by an Act passed in the twenty-fourth year of the reign of King *George* the second, intituled an Act for the rendering Justices of the Peace more safe in the execution of their office, and for indemnifying constables and others acting in obedience to their warrants; and the defendant or defendants in every such action or suit may plead the general issue, and give the special matter in evidence; and if the matter or thing complained of shall appear to have been done under the authority and in execution of any such power or jurisdiction of Her Majesty as aforesaid or of this Act, or if any such action or suit shall be brought after the time limited for bringing the same, or be brought and laid in any other county or place than the same ought to have been brought or laid in as aforesaid, then the jury shall find for the defendant or defendants; and if the plaintiff or plaintiffs shall become nonsuit, or discontinue any action after the defendant or defendants shall have appeared, or if a verdict shall pass against the plaintiff or plaintiffs, or if upon demurrer judgment shall be taken against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs, and have the like remedy for recovery thereof as any defendant or defendants hath or have in any cases of law.

24 G. 2. c. 44

Repeal of Section 4 of 6 G. 4. c. 33 and of 6 & 7 W. 4., c. 78

VIII. And be it enacted, that from and after the first day of *October* in the year one thousand eight hundred and forty-four so much of an Act passed in the sixth year of His late Majesty King *George* the Fourth, intituled an Act to repeal certain Acts relating to the governor and company of merchants of *England* trading to the *Levant Seas*, and the duties payable to them; and to authorize the transfer and disposal of the possessions and property of the said governor and company for the public service, as provides, "that from and immediately after the enrolment of any such deed or instrument as therein mentioned all such rights and duties of jurisdiction and authority over His Majesty's subjects resorting to the ports of the *Levant*, for the purposes of trade or otherwise, as were lawfully exercised and performed, or which the Letters Patent or Acts by the said Act recited, or any of them, authorized to be exercised and performed, by any consul or other officers appointed by the said company, or which such consuls or other officers lawfully exercised and performed under and by virtue of any power or authority whatever, should, from and after the enrolment of such deed or instrument as aforesaid, be and become vested in and should be exercised and performed by such consuls and other officers respectively as His Majesty might be pleased to appoint for the protection of the trade of His Majesty's subjects in the ports and places respectively mentioned in

the said Letters Patent and Acts, or any or either of them;" and also that from and after the passing of this Act an Act passed in the Parliament holden in the sixth and seventh years of His said late Majesty King *William* the Fourth, intituled An Act to enable His Majesty to make regulations for the better defining and establishing the powers and jurisdiction of His Majesty's consuls in the *Ottoman* Empire, shall be and the same are hereby repealed, save as to any matter or thing theretofore done under the authority of the same respectively.

IX. And be it enacted, that this Act may be amended or repealed by any Act to be passed during this Session of Parliament. Act may be amended &c.

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29 VICTORIÆ, CAP. XVIII.

An Act *to make provision for the transfer of the assets, liabilities, and management of the Bengal, Madras, and Bombay military funds, the Bengal military orphan society, and other funds, to the Secretary of State for India in Council.*

[30*th April* 1866.]

Whereas certain institutions known as the *Bengal* military fund, the *Bengal* military orphan society, the *Madras* military fund, and the *Bombay* military fund, were established in *India* at different times, under the authority of the Honourable *East India* Company, for the grant of certain benefits to the commissioned officers of the said Company's army who were subscribers to those institutions, and for the grant of pensions and other allowances to the widows and orphans of such officers, and those institutions were supported by donations and subscriptions from the officers of the said Company's army and by certain aids from the said Company: Preamble.

And whereas, by the Act of the twenty-first and twenty-second *Victoria*, Chapter one hundred and six, for the better government of *India*, it was amongst other things provided that the military and naval forces of the *East India* Company should be deemed to be the *Indian* military and naval forces of Her Majesty, and should be entitled to the like pay, pensions, allowances, and privileges, and the like advantages as regards promotion and otherwise, as if they had continued in the service of the said Company:

And whereas, in consequence of the changes subsequently made in the constitution of the *Indian* army, notice was given to the Government of *India* by the Secretary of State for *India* in Council that the said Secretary of State for *India* in Council was ready to assume the liabilities of the said institutions, so far as might be requisite to maintain existing pensions, and to secure to the subscribers and their families the benefits to which they were entitled therefrom, and also that, in the event of such assumption, present incumbents on and subscribers to the several funds should be guaranteed the pensions and allowances for themselves and their families to which they were entitled from those funds, according to the regulations then in force, and at the rates of subscription then existing:

And whereas, under instructions from the Secretary of State for *India* in Council, the Government of *India* caused the question whether, under the guarantee so given, the assets and liabilities of the said institutions should be made over by the directors and managers thereof to the Secretary of State for *India* in Council, to be submitted for the votes of the subscribers to those institutions, and the proposition so to make over the assets and liabilities of the said institutions was, in regard to each of the said institutions, carried in the affirmative by a large majority of votes:

And whereas, in order to avoid any doubt that may hereafter arise in regard to the legality of such transfer, it is necessary to make provision by law for enabling the directors and managers of the said institutions to transfer the assets, liabilities, and management thereof to the Secretary of State for *India* in Council, and for enabling the said Secretary of State for *India* in Council to accept the same:

Be it therefore enacted &c.

The Secretary of State for India in Council may take and assume the assets, &c. of certain pension funds in India.

I. It shall be lawful for the directors and managers of the said institutions to make over the assets, liabilities, and management thereof to the Secretary of State for *India* in Council, and for the Secretary of State for *India* in Council to take and assume the assets, liabilities, and management thereof.

Rights of incumbents and subscribers maintained.

II. As soon as the said assets, liabilities, and management shall be made over as aforesaid, and the acceptance thereof by the Secretary of State for *India* in Council notified by the Government of *India*, every person who shall be an incumbent on or subscriber to any of the said institutions at the date of such notification shall be entitled from time to time to receive from the revenues of *India* such allowance to himself, and his family shall be entitled to receive such pension or allowance after his decease, as he or they may be entitled to by the regulations of the said institutions: Provided that nothing in this Act contained shall be held to preclude the Secretary of State for *India* in Council from assigning to the incumbents on and subscribers to any of the said institutions, or to their families after their decease, any benefits in addition to those secured to them by this Act, if, on considering the assets and liabilities of the several institutions, he shall deem it reasonable so to do.

Power to take and assume the assets, &c. of certain other pension funds by consent of the subscribers thereto.

III. And whereas it may be expedient that the Secretary of State for *India* in Council should have authority in like manner to accept the transfer of the assets, liabilities, and management of other institutions, known as the *Bengal* medical retiring fund, the *Madras* medical fund, and the *Bombay* medical retiring fund, with the consent of the subscribers to the said institutions respectively: It shall be lawful for the managers or trustees to make over the assets, liabilities, and management of all or any of the said funds, and for the Secretary of State for *India* in Council to take and assume the same, if at any time hereafter it shall appear by a vote, specially taken for the purpose, that a majority of not less than three-fourths of the subscribers to those institutions who may vote upon the question are desirous of transferring them to the said Secretary of State for *India* in Council.

29 VICTORIÆ, CAP. XX.

An Act *to indemnify William Forsyth Esquire, one of Her Majesty's counsel, from any penal consequences which he may have incurred by sitting or voting as a member of the House of Commons while holding the office of standing counsel to the Secretary of State in Council of India.*

[30*th April* 1866.]

(1) [*Indemnification of William Forsyth.*]

(2) [*The general issue may be pleaded in any action or suit*]

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29 & 30 VICTORIÆ, CAP. XLVII.

An Act *to legalize the payment and distribution of Indian prize-money by the treasurer or secretary of Chelsea Hospital, and to amend an Act for the consolidating and amending the law relating to the payment of army prize-money.*

[28*th June* 1866.]

Preamble. 2 & 3 W 4 c 53

Whereas by the fourteenth Section of the Act of the second year of His late Majesty King *William* the Fourth, Chapter fifty-three, for consolidating and amending the laws relating to the payment of army prize-money, it is provided that all grants of money in the nature of prize "hereafter to be made by His Majesty, or by Parliament, or otherwise, to "the officers and troops of any division of the army employed upon or engaged in any "capture or expedition, shall, unless by the grant otherwise expressly directed, be received on behalf of the army by the treasurer of *Chelsea Hospital* or his deputy, to be distributed to the persons entitled thereto, according to their respective proportions, under "the provisions of the said Act:"

And whereas sundry grants of money in the nature of prize have been from time to time made by Her Majesty to the Directors of the *East India* Company, and since the passing of the Act of the twenty-first and twenty-second years of Her Majesty, "for the better government of *India*," to the Secretary of State for *India* in Council, for distribution among the officers and troops of Her Majesty's army in respect of captures and expeditions in which such officers and troops have been engaged in *India*:

And whereas such portions of the sums of money so granted as aforesaid as may not have been claimed and distributed in *India* have been from time to time paid over and accounted for by the said Directors and Secretary of State in Council to the said treasurer as sums of money to be received on behalf of the army by the said treasurer or his deputy, to be distributed to the persons entitled thereto, according to their respective proportions, under the provisions of the said recited Act, and the said treasurer hath received and dealt with the same accordingly:

And whereas doubts have been raised whether the said Directors and Secretary of State in Council had authority for paying over and accounting for such monies as afore-

said to the said treasurer, and whether the said treasurer or his deputy could legally receive and distribute the same under the terms and provisions of the said recited Act:

And whereas it is expedient that all such doubts should be removed, and that it should be declared that the said Directors and Secretary of State in Council had authority for paying over, and the said treasurer for receiving the same monies for distribution under the provisions of the said recited Act:

Be it enacted &c.

Receipt of treasurer or secretary of Chelsea Hospital for sums heretofore paid over as monies in nature of prize to be an effectual discharge.

I. The receipt of the treasurer or secretary of *Chelsea Hospital*, or his deputy, for all sums of money heretofore by the said Directors of the *East India* Company, or the Secretary of State for *India* in Council, or hereafter by the said Secretary of State, paid over and accounted for as portions of grants of money in the nature of prize, shall be a complete and effectual discharge to the said Directors or Secretary of State, as the case may be, paying the same, from all claims of officers and troops of Her Majesty's army having any right or title thereto, or to the distribution thereof, in respect of captures or expeditions in which such officers and troops have been engaged.

All such sums as aforesaid to be deemed to have been legally dealt with and distributed.

II. All such monies as have been so received by the said treasurer, secretary, or by his deputy from the said Directors of the late *East India* Company, or the Secretary of State for *India* in Council, shall be held and are hereby declared, so far as the same have been dealt with and distributed according to the provisions of the said Act, to have been legally dealt with and distributed, and so far as the same remain in the hands of the said treasurer, secretary, or his deputy, that the same are held and are hereby declared to be subject and liable to all the provisions and conditions of the said recited Act so far as the same are applicable to prize granted by Her Majesty to and to be received on behalf of the army by the said treasurer of *Chelsea Hospital* or his deputy.

Mode of distribution where grants hereafter made in nature of prize.

III. In all cases where grants of money in the nature of prize shall hereafter be made by Her Majesty, or by Parliament, or otherwise, to the Secretary of State for *India* in Council, for the benefit of officers and troops of Her Majesty's army in respect of captures and expeditions in which such officers and troops may have been engaged in *India*, such portions of the same as are distributable in the United Kingdom or elsewhere out of *India* shall be received by the said treasurer, secretary, or his deputy, to be distributed to the persons entitled thereunto, according to their respective proportions under the provisions of the said recited Act, and of this and of any other Act amending the same.

Interpretation.

IV. For the purpose of this Act the words "officers and troops of Her Majesty's army" shall not be held to include officers and soldiers of Her Majesty's *European* or Native *Indian* forces.

Signature of certificates in respect to out-pensioners of Chelsea Hospital.

V. Where under the recited Act any certificate or order in the form E, or in any other form, is required from any non-commissioned officer or soldier who shall be or shall have been an out-pensioner of *Chelsea Hospital*, the same may be signed by the staff offi-

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cer of pensioners for the district in which the said non-commissioned officer or soldier shall reside in lieu of any other person or officer mentioned in the said Act.

In certain cases of payment on account of officers or soldiers deceased, probate or letters of administration need not be taken out.

VI. Where any officer, non-commissioned officer, or soldier entitled to prize-money shall have died before the payment or distribution thereof, then, if the sum to which the deceased was entitled does not exceed the sum mentioned in the Army Prize (Shares of Deceased) Act, 1864 (*a*), it shall not be necessary, for the purpose of making payment or distribution, that probate or letters of administration should be taken out; but in any case the said treasurer or secretary may, if he sees fit, require probate or letters of administration to be taken out, and if, on that requisition or otherwise, probate or letters of administration are taken out, then he shall pay the prize-money to the executor or administrator.

Payments in cases aforesaid how to be made.

VII. Where the prize to which the deceased was entitled does not exceed the sum last referred to, and probate or letters of administration are not taken out, then the said treasurer or secretary shall, if he thinks fit, pay over the same to any person showing herself or himself to the satisfaction of the said treasurer or secretary to be the widow of the deceased, or to be the child or any relative of the deceased, or to be entitled to the representation to the deceased, to the end that the said prize may be applied by the person to whom it is so paid over in a due course of administration, and the same shall be applied accordingly, or else distribute the same according to the Statute of Distributions.

Where order for payment of prize-money liable to stamp-duty, same may be paid by receipt or draft stamps affixed.

VIII. Where under the Statutes at present in force an order for the payment of prize-money is liable to stamp-duty, the amount of such duty may be paid by receipt or draft stamps affixed to the said order, equal in the total amount thereof to the stamp-duty payable on an inland bill for a sum equal to that for which the order is given, and that no order for any sum less than forty shillings shall be liable to stamp-duty.

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29 & 30 VICTORIÆ, CAP. CXV.

An Act *to provide for the government of the "Straits' Settlements."*

[10*th August* 1866.]

Preamble.

Whereas the islands and territories known as the "Straits' Settlements," namely, *Prince of Wales' Island*, the island of *Singapore*, and the town and fort of *Malacca*, and their dependencies, were heretofore part of the territories in the possession and under the government of the *East India* Company, and became vested in Her Majesty as a part of *India* by virtue and subject to the provisions of the Act of the twenty-first and twenty-second year of Her Majesty, Chapter one hundred and six, intituled An Act for the better government of *India*: And whereas it is expedient that the said Settlements and their dependencies should cease to form part of *India*, and should be placed under the government of Her Majesty as part of the colonial possessions of the Crown: And whereas it may be hereafter expedient to include the colony of *Labuan* within the Government of the said Settlements: Be it enacted &c.

(*a*) 27 & 28 Vic., cap. 36.

Straits' Settlements shall cease to be part of India.

I. It shall be lawful for Her Majesty, by order to be by Her made with the advice of Her Privy Council, to declare that this Act shall come into operation at a time to be specified in such order in council, and at such time the said Settlements shall cease to be part of *India* for the purposes and within the meaning of the aforesaid Act, and it shall be further lawful for Her Majesty by any such order to make provision respecting the enforcement by or against the Government of the said Settlements of all or any of such debts, claims, and obligations as might if this Act had not passed, have been enforced by or against the Government of *India* in connexion with the administration of the said Settlements.

Power to Her Majesty in Council to make laws, constitute Courts, &c.

II. From and after the coming into operation of this Act, it shall be lawful for Her Majesty, by order or orders to be by Her from time to time made, with the advice of Her said Privy Council, to establish all such laws, institutions, and ordinances, and to constitute such Courts and officers, and to make such provisions and regulations for the proceedings in such Courts, and for the administration of justice, and for the raising and expenditure of the public revenue, as may be deemed advisable for the peace, order, and good government of Her Majesty's subjects and others within the said Settlements, or within any territory which may at any time be part of or dependent upon the same, any law, statute, or usage to the contrary in anywise notwithstanding.

Power to Her Majesty to delegate Her powers and authorities to resident officers.

III. It shall be lawful for Her Majesty, from time to time, by any Letters Patent under the great seal of the United Kingdom, or by any instructions under Her Majesty's signet and sign manual accompanying and referred to in any such Letters Patent, to delegate to any three or more persons within the said Settlements, or within any part or dependency thereof, the powers and authorities so vested in Her Majesty in Council as aforesaid, either in whole or in part, and upon, under, and subject to all such conditions, provisoes, and limitations as by any such Letters Patent or instructions as aforesaid Her Majesty shall see fit to prescribe, and, subject as aforesaid, to empower such three or more persons to exercise in respect to the island of *Labuan* and its dependencies all or any of the powers and authorities hereinbefore vested in Her Majesty in respect to the said Settlements: Provided always, that, notwithstanding any such delegation or grant of authority as aforesaid, it shall still be competent to Her Majesty in Council in manner aforesaid to exercise all the powers and authorities, either by virtue of this Act or otherwise, vested in Her Majesty in Council.

Existing laws and officers preserved.

IV. Until otherwise provided by Her Majesty in Council, or by such three or more persons as aforesaid, all laws or regulations (except the aforesaid Act of Parliament) which, when this Act shall come into operation, shall be in force in the said Settlements and their dependencies, and all proceedings of any Court of justice had or to be had therein, shall be and continue to be of the same force and effect, and all judicial and other officers who, when this Act shall come into operation, shall be lawfully exercising their offices in the said Settlements and their dependencies, shall continue to have and exercise the same functions and authorities therein, as if this Act had not been passed.

30 VICTORIÆ, CAP. XIII.

An Act *for punishing mutiny and desertion, and for the better payment of the Army and their quarters (a).*

[12*th April* 1867.]

Preamble.

Number of men to consist of 139,163, including those employed at depôts of regiments serving in India, but exclusive of those actually serving in India.

Whereas the raising or keeping a standing army within the United Kingdom of *Great Britain* and *Ireland* in time of peace, unless it be with the consent of Parliament, is against law: And whereas it is adjudged necessary by Her Majesty and this present Parliament that a body of forces should be continued for the safety of the United Kingdom, the defence of the possessions of Her Majesty's Crown, and the preservation of the balance of power in *Europe*, and that the whole number of such forces should consist of one hundred and thirty-nine thousand one hundred and sixty-three men, including eight thousand nine hundred and eighty-three, all ranks, to be employed with the depôts in the United Kingdom of *Great Britain* and *Ireland* of regiments serving in Her Majesty's *Indian* possessions, but exclusive of the numbers actually serving within Her Majesty's *Indian* possessions: And whereas no man can be forejudged of life or limb, or subjected in time of peace to any kind of punishment within this realm by martial law, or in any other manner than by judgment of his peers, and according to the known and established laws of this realm; yet nevertheless it being requisite, for the retaining all the beforementioned forces in their duty, that an exact discipline be observed, and that soldiers who shall mutiny or stir up sedition, or shall desert Her Majesty's service, or be guilty of crimes and offences to the prejudice of good order and military discipline, be brought to a more exemplary and speedy punishment than the usual forms of the law will allow: Be it therefore enacted &c.

Articles of War made by Her Majesty to be judicially taken notice of, and copies printed by the Queen's printer to be transmitted to Judges, &c.

I. It shall be lawful for Her Majesty to make Articles of War for the better government of Her Majesty's army, which articles shall be judicially taken notice of by all Judges and in all Courts whatsoever; and copies of the same, printed by the Queen's printer, shall, as soon as may be after the same shall have been made and established by Her Majesty, be transmitted by Her Majesty's Secretary of State for the War Department to the Judges of Her Majesty's Superior Courts at *Westminster*, *Dublin*, and *Edinburgh* respectively, and also to the Governors of Her Majesty's dominions abroad: Provided that no person within the United Kingdom of *Great Britain* and *Ireland*, or within the *British Isles*, shall by such Articles of War be subject to suffer any punishment extending to life or limb, or to be kept in penal servitude, except for crimes which are by this Act expressly made liable to such punishments as aforesaid, or shall be subject, with reference to any crimes made punishable by this Act, to be punished in any manner which shall not accord with the provisions of this Act: Provided also, that nothing in this Act contained shall in any manner prejudice or affect any Articles of War or other matters made, enacted, or in force, or which may hereafter be made, enacted, or in force, under the authority of the Government of *India*, respecting officers or soldiers or followers in Her Majesty's *Indian* army, being Natives of *India*; and on the trial of

(a) This Act remains in force in India till 1st January 1869. See Sec. 102, infra—*Ed*.

all offences committed by any such Native officer or soldier or follower, reference shall be had to the Articles of War framed by the Government of *India* for such Native officers, soldiers, or followers, and to the established usages of the service.

Persons subject to this Act.

II. All the provisions of this Act shall apply to all persons who are or shall be commissioned or in pay as an officer, or who are or shall be listed or in pay as a non-commissioned officer or soldier, and to all warrant officers, and to all persons employed on the recruiting service receiving pay, and all pensioners receiving allowances in respect of such service, and to persons who are or shall be hired to be employed in the royal artillery, royal engineers, and to master gunners, and to conductors of stores, and to the corps of royal military surveyors and draftsmen, and to all officers and persons who are or shall be serving on the commissariat staff, or soldiers in the commissariat staff corps, and to officers and soldiers serving in the military store department or in the military store staff corps, and to persons in the war department, who are or shall be serving with any part of Her Majesty's army at home or abroad, under the command of any commissioned officer, and (subject to and in accordance with the provisions of an Act passed in the sixth and seventh years of the reign of Her present Majesty, Chapter ninety-five,) to any out-pensioners of the royal hospital, *Chelsea*, who may be called out on duty in aid of the civil power, or for muster or inspection, or who having volunteered their services for that purpose shall be kept on duty in any fort, town, or garrison, and to all military store officers and other civil officers who are or shall be employed by or act under the Secretary of State for War at any of Her Majesty's establishments in the islands of *Jersey*, *Guernsey*, *Alderney*, *Sark*, and *Man*, and the islands thereto belonging, or at foreign stations; and all the provisions of this Act shall apply to all persons belonging to Her Majesty's *Indian* forces who are or shall be commissioned or in pay as officers, or who shall be listed or in pay as non-commissioned officers or soldiers, or who are or shall be serving or hired to be employed in the artillery or any of the trains of artillery; or as master gunners or gunners, or as conductors of stores, or who are or shall be serving in the department of engineers, or in the corps of sappers and miners, or pioneers, or as military surveyors or draftsmen, or in the ordnance or public works or commissariat departments, and to all store-keepers and other civil officers employed under the ordnance, and to all veterinary surgeons, medical store-keepers, apothecaries, hospital stewards, and others serving in the medical department of the said forces, and to all licensed suttlers, and all followers in or of any of the said forces; provided that nothing in this Act contained shall extend to affect any security which has been or shall be given by any military store officer, barrack master, or other officer, or their sureties, for the due performance of their respective offices, but that all such securities shall be and remain in full force and effect.

[*Section III applies the Act to the Channel Islands.*]

Colonial and foreign troops in Her Majesty's pay to be subject to provisions of this Act.

IV. All officers and soldiers of any troops mustered and in pay, which shall be raised and serving in any of Her Majesty's dominions abroad, or in places in possession of or occupied by Her Majesty's subjects under the command of any officer having any commission immediately from Her Majesty, shall be subject to the provisions of this

Act and of Her Majesty's Articles of War, in like manner as Her Majesty's other forces are; and if such officers and soldiers, having been made prisoners, be sent into *Great Britain* or *Ireland* although not allowed to serve therein, all the provisions of this Act in regard to billeting soldiers shall apply to such officers and soldiers.

[*Section V saves the militia, yeomanry and volunteers.*]

Power to constitute Courts-martial.

VI. For the purpose of bringing offenders against this Act and against the Articles of War to justice, Her Majesty may from time to time, in like manner as has been heretofore used, grant commissions under the royal sign manual for the holding of Courts-martial within the United Kingdom of *Great Britain* and *Ireland*, and may grant commissions or warrants under the said royal sign manual to the chief Governor or Governors of *Ireland*, the commander of the forces, or the person or persons commanding-in-chief, or commanding for the time being, any body of troops belonging to Her Majesty's army, as well within the United Kingdom of *Great Britain* and *Ireland* and the *British Isles* as in any of Her Majesty's garrisons and dominions or elsewhere beyond seas, for convening Courts-martial, and for authorizing any officer under their respective commands to convene Courts-martial, as occasion may require, for the trial of offences committed by any of the forces under the command of any such last-mentioned officer, whether the same shall have been committed before or after such officer shall have taken upon him such command: Provided that the officer so authorized be not below the degree of a field officer, except in detached situations beyond seas where a field officer is not in command, in which case a captain may be authorized to convene district or garrison Courts-martial. Every officer so authorized to convene Courts-martial may confirm the sentence of any Court-martial convened by him according to the terms of his warrant.

Place where offenders may be tried.

VII. Any person subject to this Act who shall, in any part of Her Majesty's dominions or elsewhere, commit any of the offences for which he may be liable to be tried by Court-martial by virtue of this Act or of the Articles of War, may be tried and punished for the same in any part of Her Majesty's dominions or in any other place whereto he may have come or where he may be after the commission of the offence, as if the offence had been committed where such trial shall take place.

Powers of general Courts-martial.

VIII. Every general Court-martial convened within the United Kingdom or the *British Isles* shall consist of not less than thirteen commissioned officers, and shall have power to sentence any officer or soldier to suffer death, penal servitude, imprisonment, forfeiture of pay or pension, or any other punishment which shall accord with the usage of the service: No sentence of death by a Court-martial shall pass unless two-thirds at least of the officers present shall concur therein; no sentence of penal servitude shall be for a period of less than five years; and no sentence of imprisonment shall be for a period longer than two years.

[*Section IX relates to Courts-martial convened within the United Kingdom.*]

Powers of regimental or detachment Courts-martial.

X. A regimental or detachment Court-martial shall consist of not less than five commissioned officers, unless it is found to be impracticable to assemble that number, in which case three shall be sufficient, and shall have power to sentence any soldier to corpo-

ral punishment, or to imprisonment, and to forfeiture of pay, in such manner as shall accord with the provisions of this Act.

Courts-martial on line of march or in troop ships, &c.

XI. In cases of mutiny, and insubordination accompanied with personal violence, or other offences committed on the line of march, or on board any transport ship, convict ship, merchant vessel, or troop ship, not in commission, the offender may be tried by a regimental or detachment Court-martial, and the sentence may be confirmed and carried into execution on the spot by the officer in the immediate command of the troops, provided that the sentence shall not exceed that which a regimental Court-martial is competent to award.

Powers of detachment general Courts-martial.

XII. It shall be lawful for any officer commanding any detachment or portion of troops serving in any place beyond seas where it may be found impracticable to assemble a general Court-martial, upon complaint made to him of any offence committed against the property or person of any inhabitant of or resident in any country in which such troops are so serving, by any person serving with or belonging to Her Majesty's armies, being under the immediate command of any such officer, to convene a detachment general Court-martial, which shall consist of not less than three commissioned officers, for the purpose of trying any such person; and every such Court-martial shall have the same powers in regard to sentence upon offenders as are granted by this Act to general Courts-martial: Provided always, that no sentence of any such Court-martial shall be executed until the general commanding the army of which such detachment or portion forms part shall have approved and confirmed the same.

As to swearing and summoning of witnesses.

XIII. All general and other Courts-martial shall administer an oath to every witness or other person who shall be examined before such Court in any matter relating to any proceeding before the same; and every person, as well civil as military, who may be required to give or produce evidence before a Court-martial, shall, in the case of general Courts-martial, be summoned by the Judge Advocate General, or his deputy, or the person officiating as Judge Advocate, and in the case of all other Courts-martial by the president of the Court; and all persons so summoned and attending as witnesses before any Court-martial shall, during their necessary attendance in or on such Courts, and in going to and returning from the same, be privileged from arrest, and shall, if unduly arrested, be discharged by the Court out of which the writ or process issued by which such witness was arrested, or if such Court be not sitting, then by any Judge of the Superior Courts of *Westminster* or *Dublin*, or of the Court of Session in *Scotland*, or of the Courts of law in the *East* or *West Indies*, or elsewhere, according as the case shall require, upon its being made to appear to such Court or Judge, by any affidavit in a summary way, that such witness was arrested in going to or attending upon or returning from such Court-martial; and all witnesses so duly summoned as aforesaid who shall not attend on such Courts, or attending shall refuse to be sworn, or being sworn shall refuse to give evidence, or not produce the documents under their power or control required to be produced by them, or to answer all such questions as the Court may legally demand of them, shall be liable to be attached in the Court of Queen's Bench in

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London or *Dublin*, or in the Court of Session or Sheriff or Stewart Courts in *Scotland*, or in Courts of law in the *East* or *West Indies*, or in any of Her Majesty's colonies, garrisons, or dominions in *Europe*, or elsewhere respectively, upon complaint made, in like manner as if such witness, after having been duly summoned or subpœnaed, had neglected to attend upon a trial in any proceeding in the Court in which such complaint shall be made: Provided always, that nothing in this Act contained shall be construed to render an oath necessary in any case where by law a solemn affirmation may be made instead thereof: It shall be lawful for the president of any Court-martial to administer an oath to a shorthand writer to take down, according to the best of his power, the evidence to be given before the Court.

Oath to be administered to shorthand writer.

XIV. No officer or soldier who shall be acquitted or convicted of any offence shall be liable to be tried a second time by the same or any other Court-martial for the same offence; and no finding, opinion, or sentence given by any Court-martial, and signed by the president thereof, shall be revised more than once, nor shall any additional evidence in respect of any charge on which the prisoner then stands arraigned be received by the Court on any revision.

No second trial for the same offence, but revision may be allowed.

XV. If any person subject to this Act shall at any time during the continuance of this Act begin, excite, cause, or join in any mutiny or sedition in any forces belonging to Her Majesty's army, or Her Majesty's royal marines, or shall not use his utmost endeavours to suppress the same, or shall conspire with any other person to cause a mutiny, or coming to the knowledge of any mutiny or intended mutiny shall not, without delay, give information thereof to his commanding officer; or shall hold correspondence with or give advice or intelligence to any rebel or enemy of Her Majesty, either by letters, messages, signs, or tokens, in any manner or way whatsoever; or shall treat or enter into any terms with such rebel or enemy without Her Majesty's license, or license of the general or chief commander; or shall misbehave himself before the enemy; or shall shamefully abandon or deliver up any garrison, fortress, post, or guard committed to his charge, or which he shall have been commanded to defend; or shall compel the governor or commanding officer of any garrison, fortress, or post to deliver up to the enemy or to abandon the same; or shall speak words or use any other means to induce such governor or commanding officer, or others, to misbehave before the enemy; or shamefully to abandon or deliver up any garrison, fortress, post, or guard committed to their respective charge, or which he or they shall be commanded to defend; or shall desert Her Majesty's service; or shall leave his post before being regularly relieved; or shall sleep on his post; or shall strike or shall use or offer any violence against his superior officer, being in the execution of his office, or shall disobey any lawful command of his superior officer; or who being confined in a military prison shall offer any violence against a visitor or other his superior military officer, being in the execution of his office; all and every person and persons so offending in any of the matters before mentioned, whether such offence be committed within this realm or in any other of Her Majesty's dominions, or in foreign parts, upon land or upon the sea, shall suffer death, or penal servitude, or such other punishment as by a Court-martial shall be awarded: Pro-

Crimes punishable with death.

vided always, that any non-commissioned officer or soldier attested for or in pay in any regiment or corps who shall, without having first obtained a regular discharge therefrom, enlist himself in any other regiment or corps, may be deemed to have deserted Her Majesty's service, and shall be liable to be punished accordingly.

Judgment of death may be commuted for penal servitude or other punishments.

XVI. In all cases where the punishment of death shall have been awarded by a general Court-martial or detachment general Court-martial it shall be lawful for Her Majesty, or, if in any place out of the United Kingdom or *British Isles*, for the commanding officer having authority to confirm the sentence, instead of causing such sentence to be carried into execution, to order the offender to be kept in penal servitude for any term not less than five years, or to suffer such term of imprisonment, with or without hard labour, and with or without solitary confinement, as shall seem meet to Her Majesty, or to the officer commanding as aforesaid.

Embezzlement, &c. of stores punishable by penal servitude, or by fine, imprisonment, &c

XVII. Any officer or soldier of Her Majesty's army, or any person employed in the War Department, or in any way concerned in the care or distribution of any money, provisions, forage, arms, clothing, ammunition, or other stores belonging to Her Majesty's army or for Her Majesty's use, who shall embezzle, fraudulently misapply, wilfully damage, steal, or receive the same, knowing them to have been stolen, or shall be concerned therein or connive thereat, may be tried for the same by a general Court-martial, and sentenced to be kept in penal servitude for any term not less than five years, or to suffer such punishment of fine, imprisonment, dismissal from Her Majesty's service, reduction to the ranks if a warrant or non-commissioned officer, as such Court shall think fit, according to the nature and degree of the offence; and every such offender shall, in addition to any other punishment, make good at his own expense the loss and damage sustained, and in every such case the Court is required to ascertain by evidence the amount of such loss or damage, and to declare by their sentence that such amount shall be made good by such offender; and the loss and damage so ascertained as aforesaid shall be a debt to Her Majesty, and may be recovered in any of Her Majesty's Courts at *Westminster* or in *Dublin*, or the Court of Exchequer in *Scotland*, or in any Court in Her Majesty's colonies, or in *India*, where the person sentenced by such Court-martial shall be resident, after the said judgment shall be confirmed and made known, or the offender, if he shall remain in the service, may be put under stoppages not exceeding one-half of his pay and allowances until the amount so ascertained shall be recovered.

[*Section XVIII relates only to the United Kingdom.*]

As to execution of sentences of penal servitude in the colonies, India, or elsewhere out of Her Majesty's dominions.

XIX. Whenever any sentence of penal servitude heretofore or hereafter passed upon any offender by any Court-martial holden in *India*, or in any other part of Her Majesty's foreign dominions, or elsewhere beyond the seas, is to be carried into execution for the term specified in such sentence or for any shorter term, or when sentence of death passed by any such Court-martial has been or shall as aforesaid be commuted to penal servitude, the same shall be notified by the officer commanding Her Majesty's forces at the presidency or station where the offender may come or be, or in his absence by the Adjutant General for the time being, to some Judge of one of the Supreme Courts of Judicature in *India*, or the Chief Justice, or some other Judge, as the case may be, in any part of

Her Majesty's foreign dominions, who shall make order for the penal servitude or intermediate custody of such offender; and upon any such order being made it shall be duly notified to the Governor of the presidency if in *India*, or to the Governor of the colony if in any of Her Majesty's colonies, or to the person who shall for the time being be exercising the office of governor of such presidency or colony, who, on receipt of such notification, shall cause such offender to be removed or sent to some other colony or place, or to undergo his sentence within the presidency or colony where the offender was so sentenced, or where he may come or be as aforesaid, in obedience to the directions for the removal and treatment of convicts which shall from time to time be transmitted from Her Majesty through one of Her principal Secretaries of State to such presidency or colony; and such offender shall according to such directions undergo the sentence of penal servitude which shall have been passed upon him either in the presidency or colony in which he has been so sentenced, or in the colony or place to which he has been so removed or sent, and whilst such sentence shall remain in force shall be liable to be imprisoned, and kept to hard labour, and otherwise dealt with under such sentence in the same manner as if he had been sentenced to be imprisoned with hard labour during the term of his penal servitude by the judgment of a Court of competent jurisdiction in such presidency or colony, or in the colony or place to which he has been so removed or sent respectively: And elsewhere out of Her Majesty's dominions, the officer commanding shall have power to make an order in writing for the penal servitude or intermediate custody of such offender; and such offender shall be liable by virtue of such order to be imprisoned and kept to hard labour and otherwise dealt with under the sentence of the Court in the same manner as if he had been sentenced to be imprisoned with hard labour during the term of his penal servitude by the judgment of a Court of competent jurisdiction in the place where he may be ordered to be kept in such intermediate custody, or in the place to which he may be removed for the purpose of undergoing his sentence of penal servitude. If any prisoner shall be brought to any place in the United Kingdom there to undergo any sentence of penal servitude which has been passed upon him by a Court-martial held elsewhere, and the Judge's or officer's order hereinbefore prescribed for his penal servitude and intermediate custody shall not be forthcoming, and the Judge Advocate General, upon application for that purpose, shall certify that it appears from the original proceedings of the Court-martial whereby the prisoner was tried that he has been duly sentenced to penal servitude, and that for anything that appears to the contrary thereon, such sentence is still in force against the said prisoner for the period to be stated in such certificate, then it shall be lawful for one of Her Majesty's principal Secretaries of State, upon consideration of such certificate, to direct, in writing under his hand, that the said prisoner shall be at once removed to a convict prison, and be imprisoned and kept to hard labour according to the sentence stated in such certificate, and thereupon the prisoner shall be removed to such convict prison, and shall be liable to be imprisoned and kept to hard labour, and be otherwise dealt with during the term of his sentence, as if he had been sentenced to a like term of penal servitude by a competent Court in the United Kingdom.

A sentence of penal servitude may be commuted for imprisonment, &c.

XX. In any case where a sentence of penal servitude shall have been awarded by a general or detachment general Court-martial, it shall be lawful for Her Majesty, or, if in any place out of the United Kingdom or *British Isles*, for the officer commanding in chief Her Majesty's forces there serving, instead of causing such sentence to be carried into execution, to order that the offender be imprisoned, with or without hard labour, and with or without solitary confinement, for such term not exceeding two years as shall seem meet to Her Majesty, or to the officers commanding as aforesaid.

Of forfeitures when combined with penal servitude.

XXI. Where an award of any forfeiture, or of deprivation of pay or of stoppages of pay, shall have been added to any sentence of penal servitude, it shall be lawful for Her Majesty, or, if in any place out of the United Kingdom or *British Isles*, for the officer commanding in chief Her Majesty's forces there serving, in the event of the sentence being commuted for imprisonment, to order such award of forfeiture, deprivation of pay, or stoppages of pay to be enforced, mitigated, or remitted, as may be deemed expedient.

Courts-martial may sentence to corporal punishment for certain offences.

XXII. Any Court-martial may sentence any soldier to corporal punishment for mutiny, or for insubordination accompanied with personal violence; and, save as aforesaid and as hereinafter mentioned, no Court-martial shall have power to sentence any soldier to corporal punishment; provided, that any Court-martial may sentence any soldier to corporal punishment while on active service in the field, or on board any ship not in commission, for mutiny, insubordination, desertion, drunkenness on duty or on the line of march, disgraceful conduct, or any breach of the articles of war; and no sentence of corporal punishment shall exceed fifty lashes.

Power to inflict corporal punishment and imprisonment.

XXIII. It shall be lawful for any general, district, or garrison Court-martial, in addition to any sentence of corporal punishment, to award imprisonment, with or without hard labour, and with or without solitary confinement, such confinement not exceeding the periods prescribed by the articles of war.

Power to commute corporal punishment for imprisonment, &c.

XXIV. In all cases in which corporal punishment shall form the whole or part of the sentence awarded by any Court-martial, it shall be lawful for Her Majesty, or for the general or other officer authorized to confirm the sentences of Courts-martial, to commute such corporal punishment to imprisonment for any period not exceeding forty-two days, with or without hard labour, and with or without solitary confinement, or to mitigate such sentence, or instead of such sentence to award imprisonment for any period not exceeding twenty days, with or without hard labour, and with or without solitary confinement and corporal punishment, to be inflicted in the prison, not exceeding twenty-five lashes, and the solitary confinement hereinbefore mentioned shall in no case exceed seven days at a time, with intervals of not less than seven days between each period of such confinement.

Power to commute a sentence of cashiering.

XXV. It shall be lawful for Her Majesty in all cases whatsoever, instead of causing a sentence of cashiering to be put in execution, to order the offender to be reprimanded,

or, in addition thereto, to suffer such loss of army or regimental rank, or both, as may be deemed expedient.

Marking deserters or soldiers discharged with ignominy.

XXVI. On the first and on every subsequent conviction for desertion the Court-martial, in addition to any other punishment, may order the offender to be marked two inches below and one inch in rear of the nipple of the left breast with the letter D, such letter not to be less than an inch long, and to be marked upon the skin with some ink or gunpowder, or other preparation, so as to be clearly seen, and not liable to be obliterated; a Court-martial may, upon sentencing any offender to be discharged with ignominy, also sentence him to be marked on the right breast with the letters B C; and the confirming officer may order such sentence, both in respect of the discharge and of the marking, to be carried into effect.

Power of imprisonment by different kinds of Courts-martial.

XXVII. A general, garrison, or district Court-martial may sentence any soldier to imprisonment, with or without hard labour, and with or without solitary confinement, but such solitary confinement shall not exceed the periods prescribed by the articles of war; and any regimental or detachment Court-martial may sentence any soldier to imprisonment, with or without hard labour, for any period not exceeding forty-two days, and with or without solitary confinement not exceeding the periods prescribed by the articles of war.

As to imprisonment of offenders already under sentence.

XXVIII. Whenever sentence shall be passed by a Court-martial on an offender already under sentence either of imprisonment or of penal servitude, the Court may award a sentence of imprisonment or penal servitude for the offence for which he is under trial, to commence at the expiration of the imprisonment or penal servitude to which he shall have been so previously sentenced, although the aggregate of the terms of imprisonment or penal servitude respectively may exceed the term for which any of those punishments could be otherwise awarded.

Regulations as to military prisons.

XXIX. It shall be lawful for the Secretary of State for the War Department to set apart any buildings now erected or which may hereafter be erected, or any part or parts thereof, as military prisons, and to declare that any building or any two or more buildings shall be, and thenceforth such building or buildings shall be deemed and taken to be, a military prison; and every military prison which, under the provisions of any former Act of Parliament, has been or which shall be so as aforesaid set apart and declared, shall be deemed to be a public prison within the meaning of this Act; and all and every the powers and authorities with respect to county gaols or houses of correction which now are or which may hereafter be vested in any of Her Majesty's principal Secretaries of State shall, with respect to all such military prisons, belong to and may be exercised by the Secretary of State for the War Department; and it shall be lawful for the said Secretary of State from time to time to make, alter, and repeal rules and regulations for the government and superintendence of any such military prison, and of the governor, provost marshal, officers, and servants thereof, and of the offenders confined therein, which said rules and regulations so made as aforesaid shall remain and continue to be in force until the same are altered or repealed by Her Majesty's said Secretary of State

for War; and it shall be lawful for the said Secretary of State from time to time to appoint an inspector general and inspectors of military prisons, and a governor, or provost marshal, and all other necessary officers and servants for any such military prison, and, as occasion may arise, to remove the governor or provost marshal, officer or servant of any such military prison; and the general or other officer commanding any district or foreign station within which may be any such military prison, or such general or other officer, and such other person or persons as the said Secretary of State may from time to time appoint, shall be a visitor or visitors of such prisons; and the said Secretary of State may authorize any general officer commanding on a foreign station to appoint periodically visitors to any military prison within his command; and the said Secretary of State shall transmit to the visitor or visitors of every military prison established by his authority a copy of the rules and regulations which are to be observed and enforced, and the same shall accordingly be observed and enforced, within such prison; and every inspector, visitor, and governor of any such military prison shall, subject to such rules and regulations as may from time to time be made by the said Secretary of State, have and exercise in respect of such prison, and of the governor, officers, and servants thereof, and of the prisoners confined therein, all the powers and authorities, as well in respect of administering oaths as otherwise, which any inspector, visiting justice, or governor of a county gaol or house of correction may respectively exercise as such.

As to the custody of military offenders under sentence of Court-martial and in other cases.

XXX. Every governor, provost marshal, gaoler, or keeper of any public prison or of any gaol or house of correction in any part of Her Majesty's dominions shall receive into his custody any military offender under sentence of imprisonment by a Court-martial, upon delivery to him of an order in writing in that behalf from the general commanding in chief, or the adjutant general, or the officer who confirmed the proceedings of the Court, or the officer commanding the regiment or corps to which the offender belongs or is attached, which order shall specify the offence of which he shall have been convicted, and the sentence of the Court, and the period of imprisonment which he is to undergo, and the day and hour of the day on which he is to be released; and such governor, provost marshal, gaoler, or keeper shall keep such offender in a proper place of confinement, with or without hard labour, and with or without solitary confinement, according to the sentence of the Court and during the time specified in the said order, or until he be discharged or delivered over to other custody before the expiration of that time under an order duly made for that purpose; and whenever troops are called out in aid of the civil power, or are stationed in billets, or are on the line of march, every governor, provost marshal, gaoler, or keeper of any public prison, gaol, house of correction, lock-up house, or other place of confinement, shall receive into his custody any soldier for a period not exceeding seven days, upon delivery to him of an order in writing on that behalf from the officer commanding such troops.

As to the removal or discharge of prisoners in certain cases.

XXXI. In the case of a prisoner undergoing imprisonment under the sentence of a Court-martial in any public prison other than the military prisons set apart by the authority of this Act, or in any gaol or house of correction in any part of the United Kingdom, it shall be lawful for the general commanding in chief, or the adjutant general,

or the officer who confirmed the proceedings of the Court, or the officer commanding the district or garrison in which such prisoner may be, to give, as often as occasion may arise, an order in writing directing that the prisoner be discharged, or be delivered over to military custody, whether for the purpose of being removed to some other prison or place in the United Kingdom, there to undergo the remainder or any part of his sentence, or for the purpose of being brought before a Court-martial either as a witness or for trial; and in the case of a prisoner undergoing imprisonment or penal servitude under the sentence of a Court-martial in any public prison other than such military prison as aforesaid, or in any gaol or house of correction in any part of Her Majesty's dominions other than the United Kingdom, it shall be lawful for the general commanding in chief or the adjutant general of Her Majesty's forces in the case of any such prisoner, and for the Commander-in-Chief in *India* in the case of any prisoner so confined in any part of Her Majesty's *Indian* dominions, and for the general commanding in chief in any presidency in *India* in the case of a prisoner so therein confined, and for the officer commanding in chief or the officer who confirmed the proceedings of the Court at any foreign station in the case of a prisoner so there confined, to give as often as occasion may arise an order in writing directing that the prisoner be discharged or be delivered over to military custody, whether for the purpose of being removed to some other prison or place in any part of Her Majesty's dominions, there to undergo the remainder or any part of his sentence, or for the purpose of being brought before a Court-martial, either as a witness or for trial; and in the case of any prisoner who shall be removed by any such order from any such prison, gaol, or house of correction either within the United Kingdom or elsewhere to some other prison or place either in the United Kingdom or elsewhere, the officer who gave such order shall also give an order in writing directing the governor, provost marshal, gaoler, or keeper of such other prison or place to receive such prisoner into his custody, and specifying the offence of which such prisoner shall have been convicted, and the sentence of the Court, and the period of imprisonment which he is to undergo, and the day and the hour on which he is to be released; and such governor, provost marshal, gaoler, or keeper shall keep such offender in a proper place of confinement, with or without hard labour, and with or without solitary confinement, according to the sentence of the Court, and during the time specified in the said order, or until he be duly discharged or delivered over to other custody before the expiration of that time under an order duly made for that purpose; and in the case of a prisoner undergoing imprisonment or penal servitude under the sentence of a Court-martial in any military prison in any part of Her Majesty's dominions, the Secretary of State for the War Department, or any person duly authorized by him in that behalf, shall have the like powers in regard to the discharge and delivery over of such prisoners to military custody as may be lawfully exercised by any of the military authorities above-mentioned in respect of any prisoners undergoing confinement as aforesaid in any public prison other than a military prison, or in any gaol or house of correction in any part of Her Majesty's dominions; and such prisoner in any of the cases hereinbefore mentioned shall accordingly, on the production of any such order as is hereinbefore mentioned, be discharged or delivered over, as the case may be: Provided always, that the time during which any prisoner under sentence of imprisonment by a Court-martial shall be detained

in such military custody under such order as aforesaid shall be reckoned as imprisonment under the sentence for whatever purpose such detention shall take place; and such prisoner may during such time, either when on board ship or otherwise, be subjected to such restraint as is necessary for his detention and removal.

Provision for subsistence of soldiers when imprisoned in common gaols

XXXII. The gaoler or keeper of any public prison, gaol, house of correction, lock-up house, or other place of confinement in any part of Her Majesty's dominions shall diet and supply every soldier imprisoned therein under the sentence of a Court-martial or as a deserter with fuel and other necessaries according to the regulations of such place of confinement, and shall receive on account of every soldier, during the period of his imprisonment, in *Great Britain* and *Ireland* one shilling *per diem*, and in other parts of Her Majesty's dominions sixpence *per diem*, which the Secretary of State for the War Department shall cause to be issued out of the subsistence of such soldier, upon application in writing signed by any Justice within whose jurisdiction such place of confinement shall be locally situated, together with a copy of the order of commitment, and which sum of one shilling or of sixpence *per diem*, as the case may be, shall be carried to the credit of the fund from which the expense of such place of confinement is defrayed. In *India* the expenses incurred under the provisions of this Section shall be paid in the same manner as the other expenses of such prison, or as may be provided by the laws or regulations to be made in that behalf.

Expiration of imprisonment of soldiers in common gaols.

XXXIII. Every gaoler or keeper of any public prison, gaol, house of correction, or other place of confinement, to whom any notice shall have been given, or who shall have reason to know or believe, that any person in his custody for any offence, civil or military, is a soldier liable to serve Her Majesty on the expiration of his imprisonment, shall forthwith, or as soon as may be, give, if in *Great Britain* to the Secretary of State for the War Department, and if in *Ireland* to the general commanding Her Majesty's forces in *Ireland*, or if in *India* to the adjutant general of the army, or to the nearest military authority with whom it may be convenient to communicate, notice of the day and hour on which the imprisonment of such person will expire; and every such gaoler or keeper is hereby required to use his best endeavours to ascertain and report in all cases where practicable the particular regiment or corps, battalion of a regiment or battery of artillery, to which such soldier belongs, and also whether he belongs to the depôt or the head-quarters of his regiment; and in the event of his being a recruit who has not joined, that it may be so stated in his report, together with the name of the place where the man enlisted. In all cases where the soldier in custody is under sentence to be discharged from the service on the completion of his term of imprisonment, and the discharge document is in the hands of the gaoler, such gaoler shall not be required to make any report thereof to the Secretary of State for War, or to the military authorities hereinbefore referred to.

Apprehension of deserters in the United Kingdom.

XXXIV. Upon reasonable suspicion that a person is a deserter it shall be lawful for any constable, or if no constable can be immediately met with, then for any officer or soldier in Her Majesty's service, or other person, to apprehend or cause to be apprehended

such suspected person, and forthwith to bring him or cause him to be brought before any Justice living in or near the place where he was so apprehended and acting for the county or borough wherein such place is situate, or for the county adjoining such first-mentioned county or such borough; and such Justice is hereby authorized and required to enquire whether such suspected person is a deserter, and from time to time to defer the said inquiry and to remand the said suspected person in the manner prescribed by an Act passed in the eleventh and twelfth years of the reign of Her present Majesty, Chapter forty-two, Section twenty-one, and subject to every provision therein contained; and if it shall appear to the satisfaction of such Justice by the testimony of one or more witnesses, taken upon oath, or by the confession of such suspected person, confirmed by some corroborative evidence upon oath or by the knowledge of such Justice, that such suspected person is a deserter, such Justice shall forthwith cause him to be conveyed in civil custody to the head-quarters or depôt of the regiment or corps to which he belongs, if stationed within a convenient and easily accessible distance from the place of commitment, or if not so stationed then to the nearest or most convenient public prison (other than a military prison set apart under the authority of this Act) or police station legally provided as a lock-up house for temporary confinement of persons taken into custody, whether such prison or police station be in the county or borough in which such suspected person was apprehended or in which he was committed, or not; or if the deserter has been apprehended by a party of soldiers of his own regiment or corps in charge of a commissioned officer, such Justice may deliver him up to such party, unless the officer shall deem it necessary to have the deserter committed to prison for safe custody; and such Justice shall transmit an account of the proceedings, in the form prescribed in the Schedule annexed to this Act, to the Secretary of State for the War Department, specifying therein whether such deserter was delivered to his regiment or corps, or to the party of his regiment or corps, in order to his being taken to the head-quarters or depôt of his regiment or corps, or whether such deserter was committed to prison, to the end that the person so committed may be removed by an order from the office of the said Secretary of State, and proceeded against according to law; and such Justice shall also send to the said Secretary of State a report stating the names of the persons by whom or by or through whose means the deserter was apprehended and secured; and the said Secretary of State shall transmit to such Justice an order for the payment to such persons of such sum not exceeding forty shillings as the said Secretary of State shall be satisfied they are entitled to according to the true intent and meaning of this Act; and for such information, commitment, and report as aforesaid the clerk of the said Justice shall be entitled to a fee of two shillings and no more; and every gaoler and other person into whose custody any person charged with desertion is committed shall immediately upon the receipt of the person so charged into his custody pay such fee of two shillings, and also upon the production of a receipt from the medical practitioner who, in the absence of a military medical officer, may have been required to examine such suspected person, a fee of two shillings and sixpence, and shall notify the fact to the Secretary of State for the War Department, and transmit also to the said Secretary of State a copy of the commitment, to the end that such Secretary of State

In Her Majesty's foreign dominions.

may order repayment of such fees; and when any such person shall be apprehended and committed as a deserter in any part of Her Majesty's foreign dominions, the Justice shall forthwith cause him to be conveyed to some public prison, if the regiment or corps to which he is suspected to belong shall not be in such part, or, if the regiment or corps be in such part, the Justice may deliver him into custody at the nearest military post if within reasonable distance, although the regiment to which such person is suspected to belong may not be stationed at such military post; and such Justice shall in every case transmit to the general or other officer commanding a descriptive return in the form prescribed in the Schedule to this Act annexed, to the end that such person may be removed by order of such officer, and proceeded against according to law; and such descriptive return purporting to be duly made and subscribed in accordance with the Act shall, in the absence of proof to the contrary, be deemed sufficient evidence of the facts and matters therein stated: Provided always, that any such person so committed as a deserter in any part of Her Majesty's dominions shall, subject to the provisions hereinafter contained, be liable to be transferred by order of the general or other officer commanding to serve in any regiment or corps or depôt nearest to the place where he shall have been apprehended, or to any other regiment or corps to which Her Majesty may deem it desirable that he should be transferred and shall also be liable after such transfer of service to be tried and punished as a deserter.

Transfer of deserters

As to the temporary custody of deserters in gaols

XXXV. Every gaoler or keeper of any public prison, gaol, house of correction, lock-up house, or other place of confinement in any part of Her Majesty's dominions, is hereby required to receive and confine therein every deserter who shall be delivered into his custody by any soldier or other person conveying such deserter under lawful authority, on production of the warrant of the Justice of the Peace on which such deserter shall have been taken, or some order from the office of the Secretary of State for the War Department, which order shall continue in force until the deserter shall have arrived at his destination; and such gaoler or keeper shall be entitled to one shilling for the safe custody of the said deserter while halted on the march, and to such subsistence for his maintenance as shall be directed by Her Majesty's regulations.

Desertion of recruits prior to joining their regiments or corps.

XXXVI. Any recruit for Her Majesty's army who, having been attested or received pay other than enlisting money, shall desert before joining the regiment or corps for which he has enlisted, shall, on being apprehended, and committed for such desertion by any Justice of the Peace upon the testimony of one or more witnesses upon oath, or upon his own confession, forfeit his personal bounty, and be liable to be transferred to any regiment or corps or depôt nearest to the place where he shall have been apprehended, or to any other regiment or corps to which Her Majesty may deem it more desirable that he should be transferred: Provided always, that such deserters thus transferred shall not be liable to other punishment for the offence, or to any other penalty except the forfeiture of their personal bounty.

Fraudulent confession of desertion.

XXXVII. Any person who shall confess himself to be a deserter from Her Majesty's forces, or from the embodied militia, shall be liable to be taken before any two Justices of the

Peace acting for the county, district, city, burgh, or place where any such person shall at any time happen to be when he shall be brought before them, and on proof that any such confession as aforesaid was false shall by the said Justices be adjudged to be punished, if in *England* as a rogue and vagabond, and if elsewhere by commitment to some prison or house of correction, there to be kept to hard labour for any time not exceeding three calendar months; and if, when such person shall be brought before the said Justices, it shall be proved to their satisfaction that such confession has been made, but evidence of the truth or falsehood of such confession shall not at that time be forthcoming, such Justices within the United Kingdom are hereby required to remand such person in the manner hereinbefore mentioned, and to transmit a statement of the case to the Secretary of State for the War Department, with a request to be informed whether such person appears to belong or to have belonged to the regiment or corps from which he shall have so confessed himself to have deserted; and a letter from the War Office in reply thereto, referring to such statement, and purporting to be signed by or on behalf of the Secretary of State for the War Department, shall be admissible in evidence against such person, and shall be deemed to be legal evidence of the facts stated therein, and on the receipt thereof the said Justices shall forthwith proceed to adjudicate upon the case. In *India* the authority herein given to two Justices may be exercised by one *European* Justice or Magistrate.

Furlough in case of sickness.

XXXVIII. When there shall not be any military officer of rank not inferior to captain, or any adjutant of regular militia, within convenient distance of the place where any non-commissioned officer or soldier on furlough shall be detained by sickness or other casualty rendering necessary any extension of such furlough, it shall be lawful for any Justice who shall be satisfied of such necessity to grant an extension of furlough for a period not exceeding one month; and the said Justice shall by letter immediately certify such extension and the cause thereof to the commanding officer of the corps or detachment to which such non-commissioned officer or soldier belongs, if known, and if not then to the agent of the regiment or corps, in order that the proper sum may be remitted to such non-commissioned officer or soldier, who shall not during the period of such extension of furlough be liable to be treated as a deserter: Provided always, that nothing herein contained shall be construed to exempt any soldier from trial and punishment, according to the provisions of this Act, for any false representation made by him in that behalf to the said Justice, or for any breach of discipline committed by him in applying for and obtaining the said extension of furlough.

No person acquitted or convicted by the civil Magistrate or by a jury to be tried by a Court-martial for the same offence.

XXXIX. No person subject to this Act, having been acquitted or convicted of any crime or offence by the civil Magistrate, or by the verdict of a jury, shall be liable to be again convicted for the same crime or offence by a Court-martial, or to be punished for the same otherwise than by cashiering in the case of a commissioned officer, or in the case of a warrant officer by reduction to an inferior class or to the rank of a private soldier by order of the Commander-in-Chief, or in the case of a non-commissioned officer by reduction to the ranks by order of the Commander-in-Chief or of the colonel, or in the militia by order of the appointed commandant of the regiment or corps; and whenever any officer or soldier shall have been tried by any Court of ordinary criminal jurisdiction,

the clerk of such Court or other officer having the custody of the records of such Court, or the deputy of such clerk, shall, if required by the officer commanding the regiment or corps to which such officer or soldier shall belong, transmit to him a certificate setting forth the offence of which the prisoner was convicted, together with the judgment of the Court thereon if such officer or soldier shall have been convicted, or of the acquittal of such officer or soldier, and shall be allowed for such certificate a fee of three shillings.

Soldiers liable to be taken out of Her Majesty's service only for felony, misdemeanor, or for debts amounting to 30*l.* and upwards.

XL. Any person attested for Her Majesty's army, or serving on the permanent staff of the disembodied militia or volunteers other than as a commissioned officer, shall be liable to be taken out of Her Majesty's service only by process or execution on account of any charge of felony or of misdemeanor, or of any crime or offence other than the misdemeanor of absenting himself from his service, or neglecting to fulfil his contract, or otherwise misconducting himself respecting the same, or the misdemeanor of refusing to comply with an order of Justices for the payment of money, or on account of an original debt proved by affidavit of the plaintiff or of some one on his behalf to amount to the value of thirty pounds at the least, over and above all costs of suit, such affidavit to be sworn, without payment of any fee, before some Judge of the Court out of which process or execution shall issue, or before some person authorized to take affidavits in such Court, of which affidavit, when duly filed in such Court, a memorandum shall, without fee, be endorsed upon the back of such process, stating the facts sworn to, and the day of filing such affidavit; but no soldier or other person as aforesaid shall be liable by any process whatever to appear before any Justice of the Peace or other authority whatever, or to be taken out of Her Majesty's service by any writ, summons, warrant, order, judgment, execution, or any process whatsoever issued by or by the authority of any Court of law, or any Magistrate, Justice or Justices of the Peace, or any other authority whatsoever, for any original debt not amounting to thirty pounds, or for not supporting or maintaining, or for not having supported or maintained, or for leaving or having left chargeable to any parish, township, or place, or to the common fund of any union, any relation or child which such soldier or person might, if not in Her Majesty's service, be compellable by law to relieve or maintain, or for neglecting to pay to the mother of any bastard child, or to any person who may have been appointed to have the custody of such child, any sum to be paid in pursuance of an order on that behalf, or for the breach of any contract, covenant, agreement, or other engagement whatever by parol or in writing, or for having left or deserted his employer or master, or his contract, work, or labour, or misconducting himself respecting the same, except in the case of an apprentice, or of an indentured labourer, as hereinafter described; and all summonses, warrants, commitments, indictments, convictions, judgments, and sentences on account of any of the matters for which it is herein declared that a soldier or other person as aforesaid is not liable to be taken out of Her Majesty's service, shall be utterly illegal, and null and void, to all intents and purposes; and any Judge of any such Court may examine into any complaint made by a soldier or by his superior officer, and by warrant under his hand discharge such soldier, without fee, he being shown to have been arrested contrary to the intent of this Act, and shall award reasonable costs to such complainant, who shall have for the recovery thereof the like remedy as would have been applicable to

Soldiers not liable to be taken out of Her Majesty's service for debts under 30*l.* or for not maintaining their families, or for breach of contract.

the recovery of any costs which might have been awarded against the complainant in any judgment or execution as aforesaid, or a writ of Habeas corpus ad subjiciendum shall be awarded or issued, and the discharge of any such soldier out of custody shall be ordered thereupon; provided that any plaintiff, upon notice of the cause of action first given in writing to any soldier, or left at his last quarters, may proceed in any action or suit to judgment, and have execution other than against the body or military necessaries or equipments of such soldier; provided also, that nothing herein contained relating to the leaving or deserting a master or employer, or to the breach of any contract, agreement, or engagement, shall apply to persons who shall be really and *bonâ fide* apprentices, duly bound, under the age of twenty-one years, or to indentured labourers, as hereinafter prescribed.

[*Section XLI provides that certain officers shall not be sheriffs or mayors: Sections XLII and XLIII relate to enlistment.*]

When recruits to be taken before a Justice.

XLIV. Every person so enlisted as aforesaid shall within ninety-six hours (any intervening *Sunday*, *Christmas-day*, or *Good Friday* not included), but not sooner than twenty-four hours after such enlistment, appear, together with some person employed in the recruiting service, before a Justice of the Peace, not being an officer of the army, in order that he may be attested by making the declaration and taking the oath hereinafter mentioned, or may have an opportunity of objecting to his enlistment; and upon such appearance the Justice or some person deputed by him shall fill up the declaration set forth in the Schedule to this Act annexed, first asking the recruit the questions that are requisite for that purpose, and cautioning him that if he should make any wilfully false answer thereto he will be liable to be punished as a rogue and vagabond.

Dissent and relief from enlistment.

XLV. When a recruit upon appearing before a Justice for the purposes aforesaid shall dissent from or object to his enlistment, and shall satisfy the Justice that the same was effected in any respect irregularly, he shall forthwith discharge the recruit absolutely, and shall report such discharge to the inspecting field officer of the district, or in the case of a recruit enlisted at the head-quarters or depôt of a regiment to the officer commanding the same; but if the recruit so dissenting shall not allege or shall not satisfy the Justice that the enlistment was effected irregularly, nevertheless, upon repayment of the enlisting money, and of any sum received by him in respect of pay, and of a further sum of twenty shillings as smart money, he will be entitled to be discharged, and the sum paid by such recruit upon his discharge shall be kept by the Justice, and, after deducting therefrom one shilling as the fee for reporting the payment to the Secretary of State for the War Department and to the inspecting field officer of the district, shall be paid over to any person belonging to the recruiting party who may demand the same; and the Justice who shall discharge any recruit shall in every case give a certificate thereof, signed with his hand, to the recruit, specifying the cause thereof.

Attesting of recruits.

XLVI. If the recruit on appearing before a Justice shall not dissent from his enlistment, or dissenting shall within twenty-four hours return and declare that he is unable to pay the sums mentioned in the last Section, the Justice shall require him to make

the declaration hereinbefore mentioned in the usual manner, and shall then administer to him the oath of allegiance in the form set forth in the Schedule to this Act annexed; and when the recruit shall have signed the said declaration, and taken the said oath, the Justice shall attest the same by his signature, and shall deliver to the recruiting officer the declaration so signed and attested; and the fee for such attestation, including the declaration and oath, shall be one shilling and no more; and any recruit shall, if he so wish, be furnished with a certified copy of the abovementioned declaration by the officer who finally approved of him for the service.

Recruits, until they have been attested or received pay, not triable by Court-martial, but in certain cases punishable as rogues and vagabonds.

XLVII. No recruit, unless he shall have been attested or shall have received pay other than enlisting money, shall be liable to be tried by Court-martial; but if any recruit previously to his being attested shall by means of any false answer obtain enlistment money, or shall make any false statement in his declaration, or shall refuse to answer any question duly authorized to be put to recruits for the purpose of filling up such declaration, or shall refuse or neglect to go before a Justice for the purposes aforesaid, or having dissented from his enlistment shall wilfully omit to return and pay such money as aforesaid, in any of such cases it shall be lawful for any two Justices within the United Kingdom, or for any one Justice out of the United Kingdom, acting for the county, district, city, burgh, or place where any such recruit shall at any time happen to be, to adjudge such recruit, when he shall be brought before them or him, if in *England*, to be a rogue and vagabond, and to sentence him to be punished accordingly, and if in *Scotland* or *Ireland*, or elsewhere in Her Majesty's dominions, to be imprisoned with hard labour in any prison or house of correction for any period not exceeding three calendar months; and the declaration made by the recruit on his attestation purporting to be made and subscribed in accordance with the Schedule to this Act annexed shall, in the absence of proof to the contrary, be deemed sufficient evidence of such recruit having represented the several particulars as stated in such declaration.

Attested recruits triable in some cases either before two Justices or before a Court-martial.

XLVIII. Any recruit who shall have been attested, and who shall afterwards be discovered to have given any wilfully false answer to any question directed to be put to recruits, or shall have made any wilfully false statement in the declaration hereinbefore mentioned, shall be liable, at the discretion of the proper military authorities, to be proceeded against before two Justices in the manner hereinbefore mentioned, and by them sentenced accordingly, or to be tried by a district or garrison Court-martial for the same, and punished in such manner as such Court shall direct.

Recruits absconding.

XLIX. If any recruit shall abscond, so that it is not possible immediately to apprehend and bring him before a Justice for attestation, the recruiting party shall produce to the Justice before whom the recruit ought regularly to have been brought for that purpose a certificate of the name and place of residence and description of such recruit, and of his having absconded, and shall declare the same to be true; and the Justice to whom such certificate shall be produced shall transmit a duplicate thereof to the Secretary of State for the War Department, in order that the same may appear in the *Police Gazette*.

As to militiamen enlisting into regular forces.

L. If any man while belonging to a militia regiment shall enlist in and be attested for Her Majesty's army, he shall be liable to be tried before a Court-martial on a charge for desertion; but it shall be lawful for the Secretary of State for the War Department to give such general directions as may from time to time appear to him necessary for placing any man who confesses himself to be a militiaman under stoppage of one penny a day of his pay for eighteen calendar months, in lieu of his being tried by Court-martial, and further to give general directions as to the manner in which such stoppage shall be applied, and whether, on making good the same, the man shall be returned to his militia regiment or be deemed to be a soldier in the same manner as if he had not been a militiaman at the time of his attestation: Provided that if the regiment of militia from which the man has deserted be within the United Kingdom, the Secretary of State for the War Department shall not make such latter order without the consent of the commanding officer of such regiment: Provided also, that every soldier who while belonging to a militia regiment enlisted in Her Majesty's army, whether such enlistment took place before or after the passing of the Mutiny Act, 1860, shall reckon service towards the performance of his limited engagement from the date of his attestation: Provided also, that any such soldier shall not reckon service for pension until the day on which his engagement for the militia would have expired; but if any such soldier shall subsequently to his enlistment have rendered long, faithful, or gallant service, the Secretary of State for War may, upon the special recommendation of the Commander-in-Chief, order that he may reckon service for pension from the date of his attestation. If any non-commissioned officer of the volunteer permanent staff enlists in Her Majesty's army he may be tried and punished as a deserter, but if he confesses his desertion the Secretary of State for the War Department, instead of causing him to be tried and punished as a deserter, may cause him to be returned to his service on the volunteer permanent staff, to be there put under stoppages from his pay until he has repaid the amount of any bounty received by him and the expenses attending his enlistment, and also the value of any arms, &c. issued to him while on the volunteer permanent staff, and not duly delivered up by him; or may cause him to be held to his service in Her Majesty's army, with a direction, if it seems fit, that his time of service therein shall not be reckoned for pension until the time when his engagement on the volunteer permanent staff would have expired; and may further cause him to be put under stoppages of one penny a day of his pay until he has repaid the expense attending his engagement or attestation on the volunteer permanent staff, and also the value of any arms, clothing, or appointments issued to him while on the volunteer permanent staff, and not duly delivered up by him.

Punishment of persons offending against laws relating to enlistment.

LI. Every person subject to this Act who shall wilfully act contrary to any of its provisions in any matter relating to the enlisting or attesting of recruits for Her Majesty's army shall be liable to be tried for such offence before a general, district, or garrison Court-martial, and to be sentenced to such punishments other than death or penal servitude as such Courts may award.

Enlistment and re-enlistment, and transfer to another corps abroad.

LII. It shall be lawful for any Justice of the Peace or person exercising the office of a Magistrate within any of Her Majesty's dominions abroad, and in any colony for any other person duly authorized in that behalf by the governor or officer administering

the government of such colony, and in Her Majesty's dominions in *India* for any person duly authorized in that behalf by the Governor General or Lieutenant Governor or other officer administering the government of any presidency, division, or province, and within the territories of any foreign State in *India* for the person performing the duties of the office of *British* Resident therein, and for any other person duly authorized in that behalf by the Governor General, to enlist and attest or to re-engage within the local limits of their several authorities any soldiers or persons desirous of enlisting or re-engaging in Her Majesty's army; and it shall be lawful, notwithstanding anything contained in the Statute twenty-third and twenty-fourth *Victoria*, Chapter one hundred, for any person so authorized in Her Majesty's dominions in *India*, or within the territories of any foreign State in *India*, to enlist and attest within the local limits of his authority any persons desirous of enlisting in Her Majesty's *Indian* forces. Any such Magistrate or person as aforesaid shall have the same powers in that behalf as are by this or any other Act of Parliament given to Justices in the United Kingdom for all such purposes of enlistment and attestation; but no such Magistrate or other person authorized to enlist and attest as above-mentioned shall be a general officer or hold any regimental commission; and all such appointments, past and future, and everything done or to be done under them, shall be valid and of full effect, notwithstanding the expiration of this Act or of any other Act of Parliament; and any person so attested shall be deemed to be an attested soldier.

Soldiers willing may be transferred to succeeding corps.

LIII. When any corps shall be relieved or disbanded at any station beyond the seas it shall be lawful for any officers thereunto authorized by the officer commanding in chief at such station to receive as transfers as many of the soldiers belonging to the corps leaving the station as shall be willing and fit for service for any corps appointed to remain; and every soldier so transferred is hereby deemed to be discharged from his former corps, and an attested certificate of transfer shall be delivered to the soldier.

Soldiers may be ransferred from one ervice to another.

LIV. It shall be lawful for the Commander-in-Chief, or for any officer authorized by him in that behalf, to direct that any soldier attested for any one branch of the service shall, on the application of his commanding officer, and with his own consent, be transferred to some other branch of the service or to some other regiment or corps in the same branch of the service, either within the United Kingdom or elsewhere; and every soldier so transferred shall be deemed to be discharged from his former corps, and shall have a certificate of transfer delivered to him; but any soldier attested for the infantry or commissariat staff corps or military store staff corps, and at his own request transferred to the cavalry, artillery, or engineers, shall be bound to serve for the full term of such service as if originally enlisted therein, and any soldier at his own request transferred from either of such before-mentioned services to the infantry or commissariat staff corps or military store staff corps shall be liable to serve for the term of his original enlistment: Provided always, that any soldier who may have volunteered for the corps of armourer sergeants, or for the army hospital corps, shall be liable, by order of the military authorities above-mentioned, to be retransferred to his former corps, or to any other corps on the station on which he is serving at the time,

for misconduct, unfitness, or any other reasonable cause: Provided also, that any staff clerk or other non-commissioned officer or soldier on the staff of the army may be transferred to any corps serving at the station at the time of his removal from staff employ: Provided also, that upon the conviction by Court-martial of any soldier of the crime of desertion, the officer commanding in chief Her Majesty's forces may, and if the Court-martial has been held at a foreign station the officer commanding in chief Her Majesty's forces at such foreign station may, order such soldier to serve in any regiment or corps.

Re-engagement of soldiers for a further term.

LV. Any soldier at any time during the last six months of the term of limited service for which he shall have first engaged, or after the completion of such term, with the consent of his commanding officer, or any person having been a soldier, and having received his discharge, may, if approved by competent military authority as a fit person for Her Majesty's service, be re-engaged to serve for the further term of eleven years in the infantry or commissariat staff corps or military store staff corps, and twelve years in the cavalry, and nine years in the artillery or engineers, upon making a declaration, in the form given in the Schedule annexed to this Act, before any one of Her Majesty's Justices of the Peace in *Great Britain* or *Ireland*, or if not in *Great Britain* or *Ireland* before any person duly appointed to enlist and attest out of *Great Britain* and *Ireland* any soldiers or persons desirous of enlisting or re-engaging in Her Majesty's service; and on the expiration of the second term of limited service for which any soldier shall have engaged, the said second term of limited service may be prolonged for such further time, not exceeding two years, as shall be directed by the commanding officer of the station where such soldier may be at the time of the expiration of such service; and any soldier who shall give notice to his commanding officer, after completing his second term of limited service, that he is desirous of continuing in Her Majesty's service, and being approved by competent military authority, may be continued in such service as a soldier so long as he shall desire to be so continued, and until the expiration of three calendar months after he shall have given notice to his commanding officer of his wish to be discharged, and for that purpose shall be considered in all respects during such time as if his term of service were still unexpired: Provided always, that in reckoning service under the original enlistment or re-engagement of a soldier the boon service granted by the Governor General of *India*, dated twelfth of *October* one thousand eight hundred and fifty-nine, shall be reckoned as actual service, and allowed towards pension and discharge: Provided also, that every soldier now serving who belonged to the garrison which defended *Lucknow*, or to the garrison which defended the *Alumbagh* before the advance of any portion of the forces under the late Lord *Clyde* in one thousand eight hundred and fifty-seven, shall be allowed to reckon one year's service towards the performance of his limited engagement, and also towards pension on discharge: Provided also, that every soldier who volunteered into Her Majesty's army from any embodied regiment of militia subsequently to the thirty-first of *December* one thousand eight hundred and fifty-five, or during the last week of the training of his regiment in the year one thousand eight hundred and fifty-eight, and who had rendered previous to volunteering six months' embodied or disembodied militia service, shall be allowed to reckon towards good conduct

Boon service to be reckoned.

pay and pension, and towards the completion of his limited engagement of service in Her Majesty's army, half the embodied service which he had rendered in the militia after attaining the age of eighteen.

[*Sections LVI to LVIII relate to negroes and apprentices.*]

Removal of doubts as to attestation of soldiers.

LIX. No person who shall, for six months either before or after the passing of this Act, have received pay and been borne on the strength and pay list of any regiment or corps, or depôt or battalion of a regiment or corps (of which the last quarterly pay list, if produced, shall be evidence), shall be entitled to claim his discharge on the ground of error or illegality in his enlistment or attestation, or on any other ground whatsoever, but, on the contrary, every such person shall be deemed to have been duly enlisted and attested.

Authorized deductions only to be made from the pay of the army

LX. No Secretary of State for the War Department, Paymaster General of the army, paymaster, or any other officer whatsoever, or any of their under officers, shall receive any fees or make any deductions whatsoever out of the pay of any officer or soldier in Her Majesty's army, or from their agents, which shall grow due from and after the twenty-fifth day of *April* one thousand eight hundred and sixty-seven, other than the usual deductions, or such other necessary deductions as shall from time to time be authorized or required by Her Majesty's regulations or articles of war, or by Statute twenty-six and twenty-seven *Victoria*, Chapter sixty-five, Section eight (Volunteer Act), or by Her Majesty's order signified by the Secretary of State for the War Department; and every paymaster or other officer who having received any officer's or soldier's pay shall unlawfully detain the same for the space of one month, or refuse to pay the same when it shall become due, according to the several rates and agreeably to the several regulations established by Her Majesty's orders, shall, upon proof thereof before a Court-martial, be discharged from his employment, and shall forfeit one hundred pounds, and the informer, if a soldier, shall, if he demand it, be discharged from any further service.

[*Sections LXI to LXVI relate to billets in the United Kingdom.*]

Interpretation of Act.

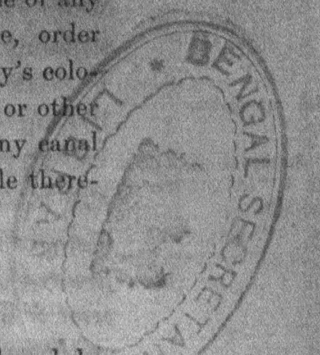
LXVII. All powers and provisions relating to soldiers shall be construed to extend to non-commissioned officers, unless when otherwise provided; and all powers and provisions relating to Justices shall be construed to extend to all Magistrates authorized to act as such in their respective jurisdictions and to chief Magistrates of exclusive local jurisdictions. * * * *

[*Sections LXVIII to LXXII relate only to the United Kingdom.*]

Tolls.

LXXIII. All Her Majesty's officers and soldiers, on duty or on their march, and their horses and baggage, and all recruits marching by route, and all prisoners under military escort, and all enrolled pensioners in uniform when called out for training or in aid of the civil power, and all carriages and horses belonging to Her Majesty or employed in Her service under the provisions of this Act, or in any of Her Majesty's colonies, when conveying any such persons as aforesaid, or their baggage, or returning from conveying the same, shall be exempted from payment of any duties and tolls on embarking or

disembarking from or upon any pier, wharf, quay, or landing place, or in passing along or over any turnpike or other roads or bridges, otherwise demandable by virtue of any Act already passed or hereafter to be passed, or by virtue of any Act or ordinance, order or direction of any colonial legislature or other authority in any of Her Majesty's colonies; provided that nothing herein contained shall exempt any boats, barges, or other vessels employed in conveying the said persons, horses, baggage, or stores along any canal from payment of tolls in like manner as other boats, barges, and vessels are liable thereto, except when employed in cases of emergency as hereinbefore enacted.



[*Section* LXXIV *relates only to Scotland.*]

Marching money on discharge.

LXXV. Every soldier entitled to his discharge shall, if then serving abroad, be sent, if he shall so require, to *Great Britain* or *Ireland* free of expense, and shall be entitled to receive marching money from the place of his being landed (or, if discharged at home, shall receive marching money from the place of his discharge,) to the parish or place in which he shall have been originally enlisted, or at which he shall at the time of his discharge decide to take up his residence, such place not being at a greater distance from the place of his discharge than the place of his original enlistment.

Ordinary course of criminal justice not to be interfered with.

Punishment of officers obstructing civil justice.

LXXVI. Nothing in this Act contained shall be construed to extend to exempt any officer or soldier from being proceeded against by the ordinary course of law, when accused of felony, or of misdemeanor, or of any crime or offence other than the misdemeanors and offences hereinbefore mentioned; and if any commanding officer shall neglect or refuse, on application being made to him for that purpose, to deliver over to the civil Magistrate any officer or soldier under his command, or shall wilfully obstruct, neglect, or refuse to assist the officers of justice in apprehending any officer or soldier under his command, so accused as aforesaid, such commanding officer shall upon conviction thereof in any of Her Majesty's Superior Courts at *Westminster*, *Dublin*, or *Edinburgh*, or in any Court of record in *India*, be deemed to be thereupon cashiered, and shall be thenceforth utterly disabled to have or hold any civil or military office or employment in the United Kingdom of *Great Britain* and *Ireland* or in Her Majesty's service; and a certificate of such conviction, containing the substance and effect of the indictment only, omitting the formal part, with the copy of the entry of the judgment of the Court thereon, shall be transmitted to the Judge Advocate General in *London*.

[*Section LXXVII relates to army agents, and Section LXXVIII to trafficking in commissions.*]

Penalty for procuring false musters.

LXXIX. Every person, not having any military commission, who shall give or procure to be given any untrue certificate, whereby to excuse any soldier for his absence from any muster or any other service which he ought to attend or perform, or who shall directly or indirectly cause to be taken any money or gratuity for mustering any soldiers, or for signing any muster rolls or duplicates thereof, shall forfeit for every such offence the sum of fifty pounds; and any person who shall falsely be mustered, or offer himself to be mustered, or lend or furnish any horse to be falsely mustered, shall, upon conviction

before some Justice of the Peace residing near the place where such muster shall be made, forfeit for every such offence the sum of twenty pounds; and the informer, if he belongs to Her Majesty's service, shall, if he demand it, be forthwith discharged.

Penalty on unlawful recruiting.

LXXX. Every person (except such person or persons as shall be authorized by beating order under the hand of the Secretary of State for the War Department) who shall cause to be advertised, posted, or dispersed bills for the purpose of procuring recruits or substitutes for the line, embodied militia, or Her Majesty's *Indian* forces, or shall open or keep any house, place of rendezvous, or office, or receive any person therein under such bill or advertisement, as connected with the recruiting service, or shall directly or indirectly interfere therewith, without permission in writing from the Adjutant General, or from the Secretary of State in Council of *India* (as the case may be), shall forfeit for every such offence a sum not exceeding twenty pounds.

Penalty for inducing soldiers to desert.

LXXXI. Any person who shall in any part of Her Majesty's dominions, or by any means whatsoever, directly or indirectly, procure any soldier to desert, or attempt to procure or persuade any soldier to desert, and any person who, knowing that any soldier is about to desert, shall aid or assist him in deserting, or, knowing any soldier to be a deserter, shall conceal such deserter, or aid or assist such deserter in concealing himself, or aid or assist in his rescue, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof before any two Justices acting for the county, district, city, burgh, or place where any such offender shall at any time happen to be, be liable to be committed to the common gaol or house of correction, there to be imprisoned, with or without hard labour, for such term not exceeding six calendar months as the convicting Justices shall think fit.

Penalty for forcible entry in pursuit of deserters without warrant.

LXXXII. Any officer or soldier who shall, in pursuit of any deserter, forcibly enter into or break open any dwelling-house or outhouse, or shall give any order under which any dwelling-house or outhouse shall be forcibly entered into or broken open, without a warrant from one or more Justices of the Peace, shall, on conviction thereof before two Justices of the Peace, forfeit a sum not exceeding twenty pounds.

Penalties on aiding escape or attempt to escape of prisoners, and on breach of prison regulations.

LXXXIII. If any person shall convey or cause to be conveyed into any military prison appointed to be a public prison under this Act any arms, tools, or instruments, or any mask or other disguise, in order to facilitate the escape of any prisoner, or shall by any means whatever aid and assist any prisoner to escape or in attempting to escape from such prison, whether an escape be actually made or not, such person shall be deemed guilty of felony, and upon being convicted thereof shall be kept to penal servitude for any term not less than four years and not exceeding six years, or be imprisoned, with or without hard labour, for any term not exceeding two years; and if any person shall bring or attempt to bring into such prison, in contravention of the existing rules thereof, any spirituous or fermented liquor, he shall for every such offence be liable to a penalty not exceeding twenty pounds and not less than ten pounds, or to be imprisoned, with or without hard labour, for any time not exceeding three calendar months; and if any person shall bring into such prison, to or for any prisoner, without the knowledge of the governor, any

money, clothing, provisions, tobacco, letters, papers, or any other articles not allowed by the rules of the prison to be in the possession of a prisoner, or shall throw into the said prison any such articles, or shall by desire of any prisoner, without the sanction of the governor, carry out of the prison any of the articles aforesaid, he shall for every such offence be liable to a penalty not exceeding five pounds, or to be imprisoned, either with or without hard labour, for any time not exceeding one calendar month; and if any person shall assault or violently resist any officer of such prison in the execution of his duty, or shall aid or excite any person so to assault or resist any such officer, he shall for every such offence be liable to a penalty not exceeding five pounds, or to be imprisoned, with or without hard labour, for any time not exceeding one calendar month, or, if the offender be a soldier already under sentence of imprisonment, he shall be liable for every such offence upon conviction thereof by a board of not less than three of the visitors of the prison, to be imprisoned, either with or without hard labour, for any time not exceeding six calendar months, in addition to his original sentence, or to be subjected to corporal punishment not exceeding fifty lashes, or upon conviction thereof by a single visitor to be imprisoned, with or without hard labour, for any time not exceeding seventy-two hours, in addition to his original sentence, or to be subjected to corporal punishment not exceeding twenty-five lashes; or if such soldier shall, within forty-eight hours of the expiration of his original or of any additional sentence, be guilty of any offence against the rules of the prison, he may for every such offence, on conviction thereof by a board or by a single visitor, be ordered to be kept in prison for a period not exceeding seventy-two hours in either a dark or light cell, and with or without hard labour or solitary confinement, on a bread and water diet, or otherwise; and all the provisions of any Act or Acts of Parliament for the regulation or better ordering of gaols, houses of correction, or prisons in *Great Britain* shall be deemed to apply to all military prisons so far as any such provision relates to such offences; and it shall be lawful for the governor, provost marshal, officer, or servant of any military prison to use and exercise all the powers and authorities given by any such Act to the gaoler, keeper, or turnkey of any prison, or to his or their assistants, to apprehend or to cause offenders to be apprehended, in order to their being taken before a Justice or Justices of the Peace; and all the powers and authorities given by any such Act to any Justice or Justices of the Peace to convict offenders in any of the above cases, together with the forms of convictions contained in any such Act, shall be applicable to the like offences when committed in respect of military prisons; and all the provisions contained in any such Act relating to suits and actions prosecuted against any person for anything done in pursuance of such Act shall be deemed to apply to all suits and actions prosecuted against any person acting in pursuance of such Act in respect of military prisons.

Certain provisions of Acts for regulating gaols to apply to military prisons.

LXXXIV. Any governor, provost marshal, gaoler, or keeper of any public prison, gaol, house of correction, lock-up house, or other place of confinement, who shall refuse to receive and to confine, or to discharge or deliver over, any military offender in the manner hereinbefore prescribed, shall forfeit for every such offence the sum of one hundred pounds.

Penalty on keepers of prisons for refusing to confine, &c., military offenders.

Penalty on purchasing soldiers' necessaries, stores, &c.

LXXXV. Any person who shall knowingly detain, buy, exchange, or receive from any soldier or deserter or any other person acting for or on his behalf, on any pretence whatsoever, or who shall solicit or entice any soldier, or shall be employed by any soldier, knowing him to be such, to sell any arms, ammunition, medals for good conduct or for distinguishment or other service, clothes, or military furniture, or any provisions, or any sheets or other articles used in barracks provided under barrack regulations, or regimental necessaries, or any article of forage provided for any horses belonging to Her Majesty's service, or who shall have in his or her possession or keeping any such arms, ammunition, medals, clothes, furniture, provisions, spirits, articles, necessaries, or forage, and shall not give a satisfactory account how he or she came by the same, or shall change the colour of any clothes as aforesaid, shall forfeit for every such offence any sum not exceeding twenty pounds together with treble the value of all or any of the several articles of which such offender shall so become or be possessed; and if any person having been so convicted shall afterwards be guilty of any such offence, he shall for every such offence forfeit any sum not exceeding twenty pounds but not less than five pounds, and the treble value of all or any of the several articles of which such offender shall have so become possessed, and shall in addition to such forfeiture be committed to the common gaol or house of correction, there to be imprisoned, with or without hard labour, for such term, not exceeding six calendar months, as the convicting Justice or Justices shall think fit; and upon any information against any person for a second or any subsequent offence, a copy of the former conviction, certified by the proper officer having the care or custody of such conviction, or any copy of the same proved to be a true copy, shall be sufficient evidence to prove such former conviction; and if any credible person shall prove on oath before a Justice of the Peace, or person exercising like authority according to the laws of the part of Her Majesty's dominions in which the offence shall be committed, a reasonable cause to suspect that any person has in his or her possession, or on his or her premises, any property of the description hereinbefore described, on or with respect to which any such offence shall have been committed, such Justice may grant a warrant to search for such property as in the case of stolen goods; and if upon such search any such property shall be found, the same shall and may be seized by the officer charged with the execution of such warrant, who shall bring the offender in whose possession the same shall be found before the same or any other Justice of the Peace, to be dealt with according to law: Provided always, that it shall be lawful for the legislature of any of Her Majesty's foreign dominions, on the recommendation of the officer or officers for the time being administering the government thereof, but not otherwise, to make provision by law for reducing such pecuniary penalty, if not exceeding twenty pounds, to such amount as may to such legislature appear to be better adapted to the ability and pecuniary means of Her Majesty's subjects and others inhabiting the same, which reduced penalty shall be sued for and recovered in such and the same manner as the full penalty hereby imposed (*a*): Provided also, that it shall

(*a*). See Act No. VII of 1867, which reduces the same penalty imposed by stat. 29 Vic., cap. 9.—*Ed.*

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be competent to Her Majesty, or to the person or persons administering the government of any such foreign dominions as aforesaid, to exercise, in respect of the laws so to be passed as aforesaid, all such powers and authorities as are by law vested in Her Majesty or in any such officer or officers as aforesaid in respect of any other law made or enacted by any such legislature.

Penalties on toll collectors demanding toll from officers, soldiers, or for carriages;

LXXXVI.**** If any toll collector shall demand and receive toll from any of Her Majesty's officers or soldiers, on duty or on their march, for themselves or for their horses, or from any recruits marching by route, or from any prisoners under military escort, or from any enrolled pensioners in uniform when called out for training or in aid of the civil power, or for any carriages or horses belonging to Her Majesty, or employed in Her service under the provisions of this Act, or in any of Her Majesty's colonies, when conveying persons or baggage or returning therefrom, every such constable, victualler, toll keeper, or other person respectively shall forfeit for every such offence, neglect, or refusal any sum not exceeding five pounds nor less than forty shillings; and if any person shall personate or represent himself to be a soldier or a recruit, with the view of fraudulently obtaining a billet, or money in lieu thereof, he shall for every such offence forfeit any sum not exceeding five pounds nor less than twenty shillings.

and on persons personating soldiers, &c.

[*Sections LXXXVII and LXXXVIII relate only to the United Kingdom.*]

Form of actions at law.

LXXXIX. Any action which shall be brought against any person for anything to be done in pursuance of this Act shall be brought within six calendar months after the doing thereof, and it shall be lawful for every such person to plead thereunto the general issue not guilty, and to give all special matter in evidence to the jury; and if the verdict shall be for the defendant in any such action, or the plaintiff therein become nonsuited or suffer any discontinuance thereof, or if in *Scotland* such Court shall see fit to assoilzie the defendant or dismiss the complaint, the Court in which the said matter shall be tried shall allow unto the defendant treble costs, for which the said defendant shall have the like remedy as in other cases where costs are by law given to defendants; and every action against any person for anything done in pursuance of this Act, or against any member or minister of a Court-martial in respect of any sentence of such Court, or of anything done by virtue or in pursuance of such sentence, shall be brought in some one of the Courts of Record at *Westminster*, or in *Dublin*, or in *India*, or in the Court of Session in *Scotland*, and in no other Court whatsoever.

Recovery of penalties.

XC. All offences for which any penalties and forfeitures are by this Act imposed not exceeding twenty pounds, over and above any forfeiture of value or treble value, shall and may be determined, and such penalties and forfeitures and forfeiture of value or treble value recovered, in every part of the United Kingdom, by and before one or more Justice or Justices of the Peace, under the provisions of an Act passed in the eleventh and twelfth years of the reign of Her Majesty Queen *Victoria*, intituled An Act to facilitate the performance of the duties of Justices of the Peace out of Sessions, within *England* and *Wales*, with respect to summary convictions and orders: Provided always, that in all cases in which there shall not be sufficient goods whereon any penalty or forfeiture can be levied,

11 & 12 Vic., c. 43.

the offender may be committed and imprisoned for any time not exceeding six calendar months; which said recited Act shall be used and applied, in *Scotland* and in *Ireland*, for the recovery of all such penalties and forfeitures, as fully to all intents as if the said recited Act had extended to *Scotland* and *Ireland*, anything in the said recited Act, or in an Act 14 & 15 Vic., c. 93. passed in the fourteenth and fifteenth years of the reign of Her Majesty Queen *Victoria*, intituled An Act to consolidate and amend the Acts regulating the proceedings at petty sessions, and the duties of Justices of the Peace out of quarter sessions, in *Ireland*, to the contrary notwithstanding; and all such offences committed in the *British Isles* or in any of Her Majesty's dominions beyond the seas may be determined, and the penalties and forfeitures and forfeiture of value or treble value recovered, before any Justices of the Peace, or persons exercising like authority according to the laws of the part of Her Majesty's dominions in which the offence shall be committed; and all penalties and forfeitures by this Act imposed exceeding twenty pounds shall be recovered by action in some of the Courts of Record at *Westminster*, or in *Dublin*, or in *India*, or in the Court of Session in *Scotland*, and in no other Court in the United Kingdom, and may be recovered in the *British Isles*, or in any other parts of Her Majesty's dominions, in any of the royal or superior Courts of such Isles or other parts of Her Majesty's dominions.

Appropriation of penalties.

XCI. One moiety of every penalty, not including any treble value of any articles, adjudged or recovered under the provisions of this Act, shall, in the United Kingdom, go to the person who shall inform or sue for the same, and the remainder of the penalty, together with the treble value of any articles, or, where the offence shall be proved by the person who shall inform, the whole of the penalty, shall be paid to the general agent for the recruiting service in *London*, and in *India* to the Military Secretary of the Government of the presidency to which the Court by whom the penalty shall be adjudicated shall be subject, to be at the disposal of the Secretary of State for the War 5 & 6 W. 4, c. 76. Department, anything in an Act passed in the fifth and sixth years of the reign of His late Majesty King *William* the Fourth, intituled An Act to provide for the regulation of municipal corporations in *England* and *Wales*, or in any other Act or Acts, to the contrary notwithstanding; and every Justice in the United Kingdom who shall adjudge any penalty under this Act shall, within four days at the farthest, report the same to the said Secretary of State, and in *India* the Court which shall adjudge any penalty under this Act shall immediately report the same to the said Military Secretary.

[*Section XCII relates only to the United Kingdom.*]

Licenses of canteens.

XCIII. When any person shall hold any canteen under proper authority of the War Department, it shall be lawful for any two Justices within their respective jurisdictions to grant or transfer any beer, wine, or spirit license to such persons, without regard to time of year or to the notices or certificates required by any Act in respect of such licenses; and the commissioners of excise, or their proper officers within their respective districts, shall also grant such licenses as aforesaid; and such persons so holding canteens, and having such licenses, may sell therein victuals and exciseable liquors, as empowered by such excise license, without being subject to any penalty or forfeiture.

Attestation of accounts.

XCIV. All muster rolls and accounts and pay and pension lists which are required to be verified by declaration shall be so verified and attested free of stamp-duty and without fee or reward paid for such declaration or attestation.

Commissaries to attest the accounts.

XCV. All commissaries, regimental paymasters, and all other accountants for military services, storekeepers, and barrack masters, upon making up their accounts, and all commissaries and storekeepers upon returning from any foreign service, shall severally make the respective declarations described in the Schedule to this Act annexed; which declarations, if made in any part of the United Kingdom, shall be made before some Justice, or other person authorized to administer oaths and declarations, and if made on foreign service shall be made before the officer commanding in chief, or the second in command, or the Quartermaster or Deputy Quartermaster General or any Assistant Quartermaster General of the army, who shall respectively have power to administer and receive the same.

Administration of oaths.

Perjury.

XCVI. All oaths and declarations which are authorized and required by this Act may be administered (unless where otherwise provided) by any Justice of the Peace, or other person having authority to administer oaths and declarations; and any person taking a false oath or declaration where an oath or declaration is authorized or required by this Act shall be deemed guilty of wilful and corrupt perjury, or of wilfully making a false declaration, and being thereof duly convicted shall be liable to such pains and penalties as by law any person convicted of wilful and corrupt perjury is subject and liable to; and every commissioned officer convicted before a general Court-martial of perjury, or of wilfully making a false declaration, shall be cashiered, and every soldier or other person amenable to the provisions of this Act found guilty thereof by a general, district, or garrison Court-martial shall be punished at the discretion of such Court. In *India*, in all cases where any oath is hereby required to be taken, or any person is hereby required to be sworn, a solemn declaration or affirmation may be substituted, if by the laws for the time being in force in *India* such declaration or affirmation would be allowed to be substituted in the place of an oath, in case the party were about to depose as a witness in a civil action in any of the Supreme Courts at the presidencies; and any person wilfully and knowingly giving false testimony on oath or solemn declaration or affirmation in any case wherein such oath or solemn declaration or affirmation shall have been made for the purpose of this Act, or any proceedings under this Act, shall be deemed guilty of wilful and corrupt perjury, and, being duly convicted thereof before a Court-martial or otherwise, shall be liable to such pains and penalties as by any law in force in *England*, or by any law in force in *India*, any persons convicted of wilful and corrupt perjury are subject and liable to.

Offences against former Mutiny Acts and Articles of War.

XCVII. All crimes and offences which have been committed against any former Act for punishing mutiny and desertion, and for the better payment of the army and their quarters, or against any Act for punishing mutiny and desertion of officers and soldiers in the service of the *East India* Company, or against any of the Articles of War made and established by virtue of either of the same, may, during the continuance of this Act, be

tried and punished in like manner as if they had been committed against this Act; and every warrant for holding any Court-martial under any such former Act shall remain in full force, and all proceedings of Courts-martial convened and held under any such warrant shall be continued, notwithstanding the expiration of such Act: Provided always, that no person shall be liable to be tried or punished for any offence against any of the said Acts or Articles of War which shall appear to have been committed more than three years before the date of the warrant for such trial, unless the person accused, by reason of his having absented himself, or of some other manifest impediment, shall not have been amenable to justice within that period, in which case such person shall be liable to be tried at any time not exceeding two years after the impediment shall have ceased.

Officers and soldiers to conform to 26 & 27 Vic., c. 57, &c.

XCVIII. It shall be the duty of all officers and soldiers to observe and conform to the provisions contained in "The Regimental Debts' Act, 1863," and in the regulations for the better execution of the purposes of the said Act prescribed from time to time by warrant under the royal sign manual.

Where troops are serving beyond the jurisdiction of the Courts of Requests, &c., actions of debt not exceeding 400 rupees to be cognizable by a military Court.

XCIX. In all places in *India* where any body of Her Majesty's forces may be serving situate beyond the jurisdiction of any Courts of Requests, or other Courts for enforcing small demands, established at the cities of *Calcutta*, *Madras*, and *Bombay* respectively, actions of debt, and all personal actions against officers or against persons licensed to act as sutlers, or other persons amenable to the provisions of this Act not being soldiers, shall be cognizable before a Court of Requests composed of military officers, and not elsewhere, provided the value in question shall not exceed four hundred rupees, and that the defendant was a person of the above description when the cause of action arose, which Court the commanding officer of any camp, garrison, cantonment, or military post is hereby authorized and empowered to convene; and the said Court shall in all practicable cases consist of five commissioned officers, and in no instance of less than three, and the president thereof shall in all practicable cases be a field officer, and in no case be under the rank of a captain, and every member shall have served five years as a commissioned officer; and the president and members assisting at any such Court, before any proceedings be had before it, shall take the following oath, which oath shall be administered by the president of the Court to the other members thereof, and to the president by any member having first taken the oath; (that is to say),

Composition and constitution of the Court prescribed.

President, &c., of Court to take the following oath.

'I swear, that I will duly administer justice according to the evidence in the matters that shall be brought before me. So help me GOD.'

Powers of such Court defined.

And all witnesses before any such Court shall be examined in the same manner as in the case of a trial by Court-martial; and it shall be competent for such Court, upon finding or awarding any debt or damage, either to award execution thereof generally, or to direct specially that the whole or any part thereof shall be stopped and paid over to the plaintiff out of any part not exceeding one-half of any pay or allowance, or out of any other public money which may respectively be coming to the defendant in the current or any future month or months, or to direct the same to be so paid by instalments; and in all cases where the execution shall be awarded generally, the debt, if not paid forthwith, shall be levied by seizure and public sale of such of the defendant's goods and property

as may be found within the camp, garrison, cantonment, or military post, under a written order of the commanding officer, grounded on the judgment of the Court; and all orders of such commanding officer as to the manner of such sale, or the person by whom the same shall be made, or otherwise respecting the same, shall be valid and binding, and any goods and property of the defendant found within the limits of the camp, garrison, cantonment, or military post to which the defendant shall belong at any subsequent time shall be liable to be seized and sold in like manner in satisfaction of any remainder of such debt or damages; and if any question shall arise whether any such effects or property are liable to be taken in execution as aforesaid, the decision and order of the said commanding officer shall be final and conclusive with respect to the same, and if sufficient goods shall not be found within the limits of the camp, garrison, cantonment, or military post, then any public money or any part not exceeding one-half of the pay or allowances accruing to the defendant shall be stopped in liquidation of such debt or damages; and if such defendant shall not receive pay as an officer or from any public department, but be a sutler, servant, or follower, he may be arrested by like order of the commanding officer, and imprisoned in some convenient place within the military boundaries for any period not exceeding two months, unless the debt be sooner paid; and the said commanding officer shall not, nor shall any person acting on his orders in respect of the matters aforesaid, incur any liability to any person or persons whomsoever for any act done by him in pursuance of the provisions aforesaid; and in cases where the said Court shall direct specially that the whole or any part of the debt or damages shall be stopped and paid out of part of any pay or allowances, or out of any public money, the same shall be stopped and paid accordingly in conformity with such direction: Provided always, that nothing hereinbefore contained shall enable any such action as aforesaid to be brought in the said Court by any officer or soldier against any officer.

Provisions relating to Courts-martial on officers and soldiers of Her Majesty's Indian forces.

C. Whenever any Court-martial may be held in *India* by virtue of this Act on any officer or soldier of Her Majesty's *Indian* forces, there shall sit on such Court-martial one or more officer or officers of Her Majesty's said *Indian* forces, if the attendance of such officer or officers can be conveniently had, and if the attendance of no such officer or officers can be conveniently had, then the officer convening such Court-martial shall specify the same in his warrant or order convening the Court-martial; and the Government of any of the presidencies in *India* may suspend the proceedings of any Court-martial held in *India* on any officer or soldier belonging to Her Majesty's *Indian* forces within such presidencies respectively; and if any officer belonging to Her Majesty's *Indian* forces shall think himself wronged by the officer commanding the regiment, and shall upon due application made to him not receive the redress to which he may consider himself entitled, he may complain to his Commander-in-chief in order to obtain justice, who is hereby required to examine into such complaint, and thereupon, either by himself or by his Adjutant General, to make his report to the Government of the presidency to which such officer belongs, in order to receive the further directions of such Government: Provided that no officer of Her Majesty's *Indian* forces aforesaid who may have joined or may join either of the staff corps formed in the several presidencies of *India* under the warrant of Her Majesty bearing date the sixteenth day of *January* one thousand eight

Proviso.

hundred and sixty-one, constituting the said corps, and no officer or soldier of Her Majesty's *Indian* forces aforesaid who shall have volunteered or may volunteer to join Her Majesty's general military service, shall be deemed to be an officer of Her Majesty's *Indian* forces for the purposes of this Section.

As to trial of officers and soldiers serving in India.

CI. Any officer or soldier, or other person subject to this Act, who shall be serving in the territories of any foreign State in *India* or in any country in *India* under the protection of Her Majesty, or at any place in Her Majesty's dominions in *India* (other than *Prince of Wales' Island, Singapore,* or *Malacca*), at a distance of upwards of one hundred and twenty miles from the presidencies of *Fort William, Fort Saint George,* and *Bombay* respectively, and who shall be accused of having committed treason or any other crime which, if committed in *England,* would be felony, may be tried by a general Court-martial, to be appointed by the general or other officer commanding in chief in such place for the time being, and, if found guilty, shall be liable to be sentenced by such Court-martial to suffer such punishment as might legally have been awarded by any of Her Majesty's Courts of ordinary criminal jurisdiction within Her Majesty's dominions in *India* in respect of an offence of a like nature and degree, and committed within the jurisdiction of such last-mentioned Court; but no sentence of a general Court-martial for any such offence shall be carried into execution until the same shall have been duly confirmed; and it shall be lawful for such general or other officer commanding in chief as aforesaid to confirm the sentence of any such general Court-martial; and such general or other officer as aforesaid may, if he shall think fit, suspend, mitigate, or remit the sentence; or, in the case of a sentence of penal servitude, may commute the same to imprisonment, with or without hard labour, for such period as to him shall seem fit: Provided always, that in all cases wherein a sentence of death or penal servitude shall have been awarded by any such general Court-martial held for the trial of a commissioned officer, or where a sentence of death shall have been awarded by any such general Court-martial held for the trial of any person subject to this Act other than a commissioned officer, such sentence shall not be carried into execution until it shall have been duly approved by the Governor General in Council, or Governor in Council of the presidency in the territories subordinate to which the offender shall have been tried: Provided also, that any person who may have been so tried as aforesaid shall not be tried for the same offence by any other Court whatsoever.

Duration of this Act.

CII. This Act shall be and continue in force * * * * in *India,* and within the *Cape of Good Hope,* the *Isle of France* or *Mauritius* and its dependencies, *Saint Helena,* and the settlements on the western coast of *Africa,* from the first day of *January* one thousand eight hundred and sixty-eight inclusive until the first day of *January* one thousand eight hundred and sixty-nine; * * * * Provided always, that this Act shall, from and after the receipt and promulgation thereof in general orders in any part of Her Majesty's dominions or elsewhere beyond the seas, become and be in full force, anything herein stated to the contrary notwithstanding.

SCHEDULES referred to by the foregoing Act.

Notice to be given to a Recruit at the time of his Enlistment.

Date 186 .

A. B.

TAKE Notice, That you enlisted with at o'clock * on the day of for the regiment [*instead of the words "for the regiment" any words may be substituted which are applicable to the case*], and if you do not come to [*here name some place*] on or before o'clock * on the day of for the purpose of being taken before a Justice, either to be attested or to release yourself from your engagement by repaying the enlisting shilling and any pay you may have received as a recruit, and by paying twenty shillings as smart money, you will be liable to be punished as a rogue and vagabond.

You are hereby also warned that you will be liable to the same punishment if you make any wilfully false representation at the time of attestation.

Signature of the Non-commissioned Officer serving the Notice. }

Declaration to be made by Recruit on Attestation.

I now residing in the parish of in the county of , do solemnly and sincerely declare, That to the best of my knowledge and belief I was born in the parish of (*a*) in or near the town of (*b*) in the county of (*c*) and am years of age; that I am of the trade or calling of [*or* of no trade or calling, *as the case may be*] ; that I am not an apprentice; that I am not married; that I am not a widower; [*or* that I am a widower, and that I have (*or* have not) children ;] that I do not belong to the militia, or to the naval coast volunteers, or to any portion of Her Majesty's land or sea forces ; that I have never served Her Majesty by land or sea in any military or naval employment whatsoever, except ; that I have never been marked with the letter D ; that I have never been rejected as unfit for Her Majesty's service on any previous enlistment ; that I was enlisted at on the day of 186 , at o'clock M. by of , and that I have read [*or* had read to me] the notice then given to me, and understood its meaning ; that I enlisted for a bounty of and a free kit, and have no objection to make to the manner of my enlistment ; that I am willing to be attested to

* A. M. or P. M. as the case may be.

Note.—(*a*), (*b*), (*c*). These blanks need not be filled up if the recruit is unable to give the requisite information.

serve in the regiment of [*instead of the words "in the regiment" any words may be substituted which are applicable to the case in or for whatever part of Her Majesty's dominions the enlistment may be made*] for the term of [*the blank after the words "term of" to be filled up with ten years for infantry and twelve for cavalry or artillery or other ordnance corps, if the person enlisted is of the age of eighteen years or upwards; but if under that age, then the difference between his age and eighteen is to be added to such ten or twelve years (as the case may be)*], provided Her Majesty should so long require my services, and also for such further term, not exceeding two years, as shall be directed by the commanding officer on any foreign station.

_____*Signature of Recruit.*

_____*Signature of Witness.*

Oath to be taken by a Recruit on Attestation.

I do make oath, That I will be faithful and bear true allegiance to Her Majesty, Her heirs and successors, and that I will, as in duty bound, honestly and faithfully defend Her Majesty, Her heirs and successors, in person, crown, and dignity, against all enemies, and will observe and obey all orders of Her Majesty, Her heirs and successors, and of the generals and officers set over me. So help me GOD.

Witness my hand,_____*Signature of Recruit.*

_____*Witness present.*

The above declaration and oath were made before me at this day of one thousand eight hundred and at o'clock.

*Signature of Justice.*_____

Declaration to be made by a Soldier, or Person having been a Soldier, on renewing his service.

I do declare, That I am at present [*or was, as the case may be,*] in Captain Company in the regiment [*the foregoing portion of this declaration may be altered to suit each particular case*]; that I enlisted on the day of for a term of years; that I am of the age of years; and that I will serve Her Majesty, Her heirs and successors, for a further term of years [*to be*

filled up with eleven years in the infantry, or twelve in the cavalry, or nine in the artillery or engineers, and, in the case of a soldier about to embark for foreign service, with such number of years as shall be required to complete a total service of twenty-one years in the artillery, engineers, and infantry, or twenty-four in the cavalry], provided my services should so long be required, and also for such further term, not exceeding two years, as shall be directed by the commanding officer on any foreign station.

Declared before me ——— the ——— day of ——— 18——.

——— *Signature of Soldier.*

——— *Signature of Witness.*

[*The forms of Masters' oaths and Justices' certificates, in the case of apprentices, are omitted.*]

Form of Declaration of Attestation of a Commissary's or Purveyor's Accounts.

I do solemnly and sincerely declare, That I have not applied any monies or stores or supplies under my care or distribution to my own use, or to the private use of any other person by way of loan to such person or otherwise, or in any manner applied them, or knowingly permitted them to be applied, to any other than public purposes, according to the duty of my office.

Declared before me by the within-named }
this day of }

Justice of the Peace of
or *Commander-in-Chief*, or *second in command, et cætera, the army serving in et cætera* [*as the case may be*].

Form of Declaration of Attestation of a Storekeeper's Accounts.

I , storekeeper at , do hereby solemnly and sincerely declare, That I have charged myself in this account with the several sums drawn for or received by me on imprests, or for rents, sale of old stores, or for any other article or service; that they are just and true, and include every sum for which I am accountable during the period stated. I also solemnly declare, that I have not, directly or indirectly, received any profit, fee, emolument, or advantage whatever beyond my salary and authorized allowances, except the trifling advantage which may have arisen in respect to the fractional parts of a penny in the totals of the pay lists, as sanctioned by the regulations of 19th December 1832 $\frac{8}{11\,7\,8}$ (See Art. 246, at page 65, of Home Regulations); and I further solemnly declare, that the several sums of money for which I have taken credit as disbursements in this account, amounting to , have been actually and *bonâ fide* paid by me for the respective services, without any deductions, to

the several persons entitled to the same, and that the receipts which accompany this account have been actually signed and witnessed by the persons stated therein; and I make this declaration, conscientiously believing the same to be true.

_____,

Storekeeper at _____.

Declared before me at
this day of 18 .

_____,

Magistrate for _____.

FORM of DECLARATION of ATTESTATION of a BARRACK MASTER'S ACCOUNTS.

I , Barrack Master of the barracks at , do hereby solemnly and sincerely declare, That I have charged myself in this account with the several sums drawn for or received by me on imprests, or for rents, damages, and deficiencies, washing sheets, or for any other article or service; that they are just and true, and include every sum for which I am accountable during the period stated. I also solemnly declare, that I have not, directly or indirectly, received any profit, fee, emolument, or advantage whatever from or on account of the purchase or issue of any of the articles for the service of the said barracks, nor have I any property in lands, houses, tenements, or any article used or employed in the service of the War Department; and I further solemnly declare, that the several sums of money for which I have taken credit as disbursements in this account, amounting to , have been actually and *bonâ fide* paid by me for the respective services, without any deductions, to the several persons entitled to the same, and that the receipts which accompany this account have been actually signed and witnessed by the persons stated therein; and I make this declaration, conscientiously believing the same to be true.

_____,

Barrack Master at _____.

Declared before me at
this day of 18 .

_____,

Magistrate for _____.

FORM of DECLARATION of ATTESTATION of a PAYMASTER'S ACCOUNTS.

I do solemnly and sincerely declare, That the foregoing pay list of the regiment of , for the period ended 186 , contains charges of pay for only such non-commissioned officers, drummers, fifers,

buglers, and privates as were effective and entitled to pay during, and regularly mustered at, the periods set against their names; that all those men who were not present at the respective musters taken by me on the , the , and the have the true reasons of their absence stated against their names; and that every absence affecting the pay or allowances of such men which occurred between the respective musters is properly accounted for.

Also, that the list of commissioned officers prefixed to the said pay list contains a true and just statement of the names of all the commissioned officers who have been effective and entitled to pay as belonging to the said regiment for the periods therein set down against their respective names; also, that all the remarks opposite to their names on the muster roll have been correctly copied therein; and that the sum debited in the general state of this pay list for the pay of officers has been actually received by me and paid to them respectively.

Also, that the whole of the sums debited in this pay list and account, amounting to , have been actually and *bonâ fide* disbursed by me in conformity with the established regulations, and that the total sum received, drawn for, or required to be remitted for the several services therein charged, including every receipt whatever, for which I am required to give credit in these accounts, is

Also, that the statement at the foot of this page contains a full and correct list of all abstracts of examination, and of all decisions on abstracts of examination, of the pay list of this regiment received between the of 186 (the date of the last pay list transmitted to the War Office being that for the period ended the 186) and the of 186 , the date of this pay list.

Also, that the total amount of the sums disallowed in the said decisions is credited in this pay list, in conformity with Article 21 of the explanatory directions, dated the 1st July 1848.

Also, that to the best of my knowledge and belief, both my sureties are now living; that the property of each is at least double that for which he is surety; and that they respectively reside at the places under-mentioned.

Names of sureties.	Places of residence.
_____	_____
_____	_____

_____ *Paymaster.*

Declared and subscribed before me, at this day of 186 . } _____ *Justice of the Peace for* _____.

Witnesses { _____ *Commanding Officer.*
_____ *Adjutant.*

FORM of DECLARATION of ATTESTATION of the ACCOUNTS of a MILITARY ACCOUNTANT.

I HEREBY solemnly and sincerely declare, That this account, comprised in folios, is just and true, according to the best of my knowledge, information, and belief; and I make this declaration, conscientiously believing the same to be true.

_____ *Military Accountant.*

Declared before me, at this day of 18 . } _____ *Justice of the Peace for* _____.

No.

DESCRIPTION RETURN of *as the case may be,*] on the day of who was apprehended [*or* " surrendered himself," and was committed to confinement at on the day of as a deserter from [*insert regiment or corps*].

Age		
Height	Feet.	Inches.
Complexion		
Hair		
Eyes		
Marks		
Probable date of enlistment, and where		
Probable date of desertion, and from what place.		
* Name and occupation and address of the person by whom or through whose means the deserter was apprehended and secured.		
* Particulars in the evidence on which the prisoner is committed, and showing whether he surrendered or was apprehended, and in what manner, and upon what grounds.		

* It is important for the public service, and for the interest of the deserter, that this part of the return should be accurately filled up, and the details should be inserted by the Magistrate in his own handwriting, or, under his direction, by his clerk.

I do hereby certify, that the prisoner has been duly examined before me as to the circumstance herein stated, and has declared in my presence that he† a deserter from the abovementioned corps.

_____ *Signature and address of Magistrate.*

_____ *Signature of prisoner.*

_____ *Signature of informant.*

† Insert " is " or " is not," as the case may be

I certify, that I have inspected the prisoner, and consider him‡ for military service.

_____ *Signature of Military Medical Officer, or of§ private Medical Practitioner.*

‡ Insert " fit" or " unfit," as the case may be; and, if unfit, state the cause of unfitness.

§ No fee will be allowed to a private Medical Practitioner where a Military Medical Officer is stationed, unless it is shown that his services were not available.

30 VICTORIÆ, CAP. XIV.

AN ACT *for the regulation of Her Majesty's Royal Marine Forces while on shore.*

[12*th April* 1867.]

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30 & 31 VICTORIÆ, CAP. XXXIV.

AN ACT *for limiting the period of enlistment in Her Majesty's Army.*

[20*th June* 1867.]

Preamble. WHEREAS it is expedient to alter the periods of enlistment now in use in Her Majesty's land forces: Be it enacted &c.

Twelve years the limit of enlistment. I. From and after the passing of this Act no person shall be enlisted for the first term of his engagement to serve Her Majesty as a soldier for a longer period than twelve years, to be reckoned from the day on which the recruit shall have been attested for service.

Renewal of enlistment. II. Any person who now has or may hereafter have completed at least two-thirds of the first term of his enlistment may at any time thereafter, with the approbation of his commanding officer or other competent military authority, be re-engaged for such a period as shall complete a total period of twenty-one years in Her Majesty's service.

Continuance in Her Majesty's service after twenty-one years therein. III. Any soldier who shall have completed a total period of twenty-one years service may give notice to his commanding officer of his desire to continue in Her Majesty's service; and if his commanding officer or other competent military authority approves of such application he may be continued as a soldier, subject in all respects to the provisions of this Act and of the Mutiny Act and Articles of War, as if his term of service were still unexpired, until he shall have given three calendar months' notice to his commanding officer of his wish to be discharged, and the expiration of such notice.

On expiration of enlistment, soldiers on foreign stations to be sent home. IV. Any soldier whose period of enlistment or of total service shall expire while he is serving on any foreign, colonial, or *Indian* station may be detained, and his service may be prolonged, for such further period as shall be directed by the commanding officer at the station there, not exceeding twelve months; but at the expiration of such prolonged service, or sooner, if the said commanding officer shall see fit, the soldier shall, unless he desires to remain there, be sent home at the public charge as in the case of soldiers invalided, with all convenient speed, and after his arrival he shall be discharged.

Unless he desires to remain in the colony or possession. V. If any such soldier being in any of Her Majesty's colonies or possessions abroad desires to remain and to claim his discharge there, he shall, if such be his desire, give notice thereof to the governor through the commanding officer, whereupon it shall be lawful for such governor, if he sees fit, with the consent of the commanding officer, to permit such soldier to remain in such colony as a discharged soldier, and such soldier shall have no claim thereafter to be conveyed to his home in the United Kingdom or elsewhere.

Rules for reckoning service. VI. In reckoning the service of a soldier for discharge under the provisions of this Act there shall be excluded therefrom such periods of time during which he has been

absent from his duty for any of the following causes: Imprisonment for any cause, save that of detention awaiting any trial which results in the acquittal and discharge of the prisoner from custody, desertion or absence without leave, exceeding five days, or as a prisoner of war, unless in the latter instance it shall appear to the satisfaction of a Court-martial to be summoned on his rejoining Her Majesty's service, that he was not taken prisoner through his own wilful neglect of duty, and that he rejoined as soon as he could and ought to have done.

Discharge on completion of service.

VII. Every soldier who shall have completed his period of service according to the provisions of this Act shall be entitled to his discharge, unless at the time of the expiration of such period of service he stands charged with the commission of any offence, in which case his period of service shall be prolonged, and his discharge deferred, until he shall have undergone his trial by Court-martial, and any punishment awarded against him. Every soldier, until he has received his discharge, shall remain subject to all the provisions of any Act that may be in force for punishing mutiny and desertion, and any Articles of War made in pursuance thereof.

Repeal of 10 & 11 Vic., c. 37, and 12 & 13 Vic., c. 78 as to soldiers enlisted under this Act.

VIII. After the passing of this Act every person enlisting or re-enlisting or any soldier re-engaging into Her Majesty's service shall be subject to the provisions of this Act; and the provisions of the Act of the Session holden in the tenth and eleventh years of Her Majesty's reign, chapter thirty-seven, intituled An Act for limiting the term of service in the army, and of the Act of the Session holden in the twelfth and thirteenth *Victoria*, chapter seventy-three, intituled An Act to limit the enlistment in the Artillery and other Ordnance Corps, shall be then wholly repealed as to such persons and soldiers.

Forms of attestation.

IX. The forms to be used on the attestation of a soldier, and on renewing his service, or on re-engaging, under this Act, shall be such as are set forth in the Schedule hereto, or as are prescribed in the Mutiny Act for the time being in force.

Enlistment for particular arm of or for general service.

X. Every person enlisting under this Act shall be enlisted for some particular arm or branch of service, and if he shall enlist for cavalry or infantry he shall be at liberty to declare and state the particular regiment of cavalry or infantry into which he desires to enlist, and he shall be attested for the same and be sent thereto with all convenient speed; but if no such statement or declaration be made by such person at the time of his attestation as aforesaid, then he shall be attested for general service, and it shall be lawful for the military authorities, at any time within twelve months after his attestation, to attach him to such regiment as to them shall seem to be most fitting and convenient for Her Majesty's service; provided always, that after the recruit shall have been attached to any regiment he shall not be removed or transferred therefrom save and except under the provisions of the Mutiny Act for the time being in force.

Short title.

XI. This Act shall be cited as the Army Enlistment Act, 1867.

BENGAL SECRETARIAT

SCHEDULE referred to in the foregoing Act.

Declaration to be made by Recruit on Attestation.

I now residing in the parish of in the county of , do solemnly and sincerely declare, That to the best of my knowledge and belief I was born in the parish of (*a*) in or near the town of (*b*) in the county of (*c*) , and am years of age; that I am of the trade or calling of [*or* of no trade or calling, *as the case may be*]; that I am not an apprentice; that I am not married; that I do not belong to the militia, or to the naval coast volunteers, or to any portion of Her Majesty's land or sea forces; that I have never served Her Majesty by land or sea in any military or naval employment whatsoever, except ; that I have never been marked with the letter D; that I have never been rejected as unfit for Her Majesty's service on any previous enlistment; that I was enlisted at on the day of 186 , at o'clock M. by of , and that I have read [*or* had read to me] the notice then given to me, and understood its meaning; that I enlisted for a bounty of and a free kit, and have no objection to make to the manner of my enlistment; that I am willing to be attested to serve in the regiment of [*instead of the words* "in the regiment," *any words may be substituted which are applicable to the case as in or for general service in that command or branch of the service for which the enlistment may be made*] for the term of twelve years, provided Her Majesty should so long require my services, and also for such further term, not exceeding twelve months, as shall be directed by the commanding officer on any foreign station.

_____ *Signature of recruit.*

_____ *Signature of witness.*

Note (*a*), (*b*), (*c*). These blanks need not be filled up if the recruit is unable to give the requisite information.

Declaration to be made by a Soldier, or Person having been a Soldier, on renewing his service.

I do declare, That I am at present [*or* was, *as the case may be*,] in Captain company in the regiment [*the foregoing portion of this declaration may be altered to suit each particular case*]; that I enlisted on the day of for a term of years; that I am of the age of years; and that I will serve Her Majesty, Her heirs and successors, for a further term of years [*to be filled up with such number of years as shall be required to complete a total service of twenty-one years in the army*], provided my services should so long be required, and also for such further term, not exceeding twelve months, as shall be directed by the commanding officer on any foreign station.

Declared before me _____

_____ *Signature of soldier.*

_____ *Signature of witness.*

30 & 31 VICTORIÆ, CAP. XLV.

AN ACT *to extend and amend the Vice-Admiralty Courts' Act*, 1863 (*a*).

[15*th July* 1867.]

Be it enacted, &c.

Short title.

I. This Act may be cited for all purposes as The Vice-Admiralty Courts' Act Amendment Act, 1867.

26 & 27 Vic., c 24, applied.

II. This Act shall be read as one Act with the Vice-Admiralty Courts' Act, 1863 (*b*).

* * * * *

Extended to the Straits' Settlements.

XVII. The Vice-Admiralty Courts' Act, 1863, shall, together with this Act, apply to any Vice-Admiralty Court now established or hereafter to be established in the *Straits'* Settlements.

26 & 27 Vic., c. 24, s. 23 extended to appeals from Vice-Admiralty Courts in Indian possessions.

XVIII. The limitation of the time allowed for appeals contained in the twenty-third Section (*c*) of the Vice-Admiralty Courts' Act, 1863, shall be held to apply to all decrees or orders pronounced in any Vice-Admiralty Court now established or hereafter to be established in any of Her Majesty's possessions in *India*.

(*a*) 26 Vic., c. 24.—*Ed.*

(*b*) No part of this statute applied to British India until section 23 was extended thereto by 30 & 31 Vic., c. 45.—*Ed.*

(*c*) 23. The time for appealing from any decree or order of a Vice-Admiralty Court shall, notwithstanding any existing enactment to the contrary, be limited to six months from the date of the decree or order appealed from; and no appeal shall be allowed where the petition of appeal to Her Majesty shall not have been lodged in the registry of the High Court of Admiralty and of appeals within that time, unless Her Majesty in Council shall, on the report and recommendation of the Judicial Committee of the Privy Council, be pleased to allow the appeal to be prosecuted, notwithstanding that the petition of appeal has not been lodged within the time prescribed.

APPENDIX.

[*The following Sections were accidentally omitted to be inserted in their proper place.*]

18 & 19 VICTORIÆ, CAP. XCI.

An Act *to facilitate the erection and maintenance of colonial lighthouses, and otherwise to amend the Merchant Shipping Act*, 1854.

[14*th August* 1855.]

Legal Procedure.

Part X of Merchant Shipping Act, 1854.

Jurisdiction in case of offences on board ship.

12 & 13 Vic., c. 96.

XXI. If any person, being a *British* subject, charged with having committed any crime or offence on board any *British* ship on the high seas or in any foreign port or harbour, or if any person, not being a *British* subject, charged with having committed any crime or offence on board any *British* ship on the high seas, is found within the jurisdiction of any Court of Justice in Her Majesty's dominions which would have had cognizance of such crime or offence if committed within the limits of its ordinary jurisdiction, such Court shall have jurisdiction to hear and try the case as if such crime or offence had been committed within such limits: Provided, that nothing contained in this Section shall be construed to alter or interfere with the Act of the thirteenth year of Her present Majesty, chapter ninety-six.

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24 & 25 VICTORIÆ, CAP. CXXXIV.

An Act *to amend the law relating to Bankruptcy and Insolvency in England.*

[6*th August* 1861.]

As to petition by or against trader or non-trader, followed by adjudication, in the foreign dominions of the Crown.

LXXV. The filing of a petition by or against a debtor, whether a trader or not, in any Court having jurisdiction for the relief of insolvent debtors in insolvency or bankruptcy in any of Her Majesty's dominions, colonies, or dependencies, and the adjudication of an act of insolvency or bankruptcy on such petition, shall, for the purposes of this Act, be accounted and adjudged conclusive evidence of an act of bankruptcy committed by such debtor at the time of filing such petition, or of the filing the petition on which the adjudication of an act of insolvency or of bankruptcy shall have been made; and any creditor or creditors of such debtor whose debt or debts shall be of sufficient amount to enable him or them to petition for adjudication of bankruptcy under this Act may, at any time within two months after notice of such adjudication shall have been given in the *London Gazette*, petition for adjudication of bankruptcy under this Act against such debtor, and under such petition all such proceedings may be had and taken as are authorized and directed by this Act.

Where debtor who has been adjudged bankrupt, &c., in India or the colonies resides, or has property, in England, &c., power to obtain adjudication in England, &c., and proceedings thereupon.

CCXVIII. If any person who shall have been duly adjudged or declared bankrupt or insolvent in *India*, or any of the foreign dominions, plantations, or colonies of Her Majesty, shall be resident or shall be possessed of property in *England*, *Ireland*, or *Scotland*, or in any colony, plantation, or foreign possession of the Crown, it shall be lawful for the assignee, trustee, or other representative of the creditors of such bankrupt or insolvent to apply for and obtain an adjudication of bankruptcy, sequestration, or insolvency against such person in the Court of Bankruptcy in *England*, and in the proper Court in *Scotland*, *Ireland*, and such colony, plantation, or foreign possession of the Crown respectively, and by virtue thereof the same order and disposition shall be had and taken with respect to the person and property of the bankrupt or insolvent, as would have been if he had been originally adjudged bankrupt or insolvent by the Court or tribunal so applied to. Upon such application it shall not be necessary for the assignee, trustee, or other representative of the creditors of the person so declared bankrupt or insolvent as aforesaid to give proof of any act of bankruptcy or petitioning creditor's debt, or to produce any other evidence than a duly certified copy, under the seal of the Court, of the order or adjudication by which such person was found or adjudged bankrupt or insolvent.

A COLLECTION

OF

STATUTES RELATING TO INDIA,

PASSED BETWEEN

AUGUST 1867 AND AUGUST 1869,

BOTH INCLUSIVE,

BEING A

SECOND SUPPLEMENT

TO

"THE LAW RELATING TO INDIA AND THE EAST INDIA COMPANY."

(Fifth Edition.)

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30 & 31 VICTORIÆ, CAP. CXXIV.

AN ACT *to amend the Merchant Shipping Act*, 1854.

[20*th August* 1867.]

* * * * * *

VI. In any *British* possession out of the United Kingdom the governor or officer administering the government for the time being shall, subject to the laws of such possession, have power to make regulations concerning the supply within such possession of lime or lemon-juice and anti-scorbutics for the use of ships; and any lime or lemon-juice or anti-scorbutics duly supplied in accordance with any such regulations shall be deemed to be fit and proper for the use of ships.

Power to governors &c., to make regulations as to supply of lime or lemon-juice, &c.

* * * * * *

X. The following Rules shall be observed with respect to the medical inspection of seamen; that is to say—

Rules for medical inspection of seamen.

* * * * * *

(5.) In *British* possessions out of the United Kingdom the governor or other officer administering the government for the time being shall have the power of appointing medical inspectors of seamen, of charging fees for inspections, when applied for, and of determining the remuneration to be paid to such inspectors.

XI. If any *British* subject commits any crime or offence on board any *British* ship, or on board any foreign ship to which he does not belong, any Court of Justice in Her

Offences by British subjects on board ships.

Majesty's dominions, which would have had cognizance of such crime or offence if committed on board a *British* ship within the limits of the ordinary jurisdiction of such Court, shall have jurisdiction to hear and determine the case as if the said crime or offence had been committed as last aforesaid.

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30 & 31 VICTORIÆ, CAP. CXXXII.

AN ACT *to remove doubts as to the power of trustees, executors, and administrators to invest trust funds in certain securities, and to declare and amend the law relating to such investments.*

[20*th August* 1867.]

Preamble. 22 & 23 Vic., c. 35.

WHEREAS by an Act passed in the session holden in the twenty-second and twenty-third years of Her present Majesty, Chapter thirty-five, "to further amend the law of property, and to relieve trustees," it is enacted, that "when a trustee, executor, or administrator shall not by some instruments creating his trust be expressly forbidden to invest any trust fund on real securities in any part of the United Kingdom, or on the stock of the Bank of *England* or *Ireland*, or on *East India* stock, it shall be lawful for such trustee, executor, or administrator to invest such trust fund on such securities or stock, and he shall not be liable on that account as for a breach of trust, provided that such investment shall in other respects be reasonable and proper:"

And whereas doubts have arisen as to the legal effect and signification of the words "*East India* stock" in the said Act mentioned:

Be it therefore enacted &c.

Application of term "East India stock" in recited Act.

I. The words "*East India* stock" in the said Act passed in the session holden in the twenty-second and twenty-third years of Her Majesty, Chapter thirty-five, shall include and express as well the *East India* stock which existed previously to the thirteenth day of *August* one thousand eight hundred and fifty-nine, when the said Act received the assent of Her Majesty, as *East India* stock charged on the revenues of *India*, and created under and by virtue of any Act or Acts of Parliament which received Her Majesty's assent on or after the thirteenth day of *August* one thousand eight hundred and fifty-nine; and it shall be lawful for every trustee, executor, or administrator to invest any trust fund in his possession or under his control in the stock created by the last-mentioned Act or Acts to the same extent, and for the same purposes and objects, as he can now invest such trust fund in the *East India* stock which existed previously to the thirteenth day of *August* one thousand eight hundred and fifty-nine.

Trustees may invest in any securities interest whereon is guaranteed by Parliament.

II. It shall be lawful for every trustee, executor, or administrator to invest any trust fund in his possession or under his control in any securities the interest of which is or shall be guaranteed by Parliament to the same extent and in the same manner as he may invest such trust fund in such securities as aforesaid.

BENGAL SECRETARIAT LIBRARY

31 VICTORIÆ, CAP. XXVI.

AN ACT *to enable certain guaranteed Indian Railway Companies to raise money on Debenture Stock.*

[29*th May* 1868.]

Preamble.

WHEREAS the Railway Companies severally known as the *Great Indian Peninsula* Railway Company, the *East Indian* Railway Company, the *Madras* Railway Company, the *Bombay, Baroda, and Central India* Railway Company, the *Scinde* Railway Company, the *Eastern Bengal* Railway Company, and the *Oudh and Rohilcund* Railway Company, Limited, were constituted and incorporated by Acts of Parliament, or by certificate under Act of Parliament, for the purpose of constructing, maintaining, and working Railways in *India*; and the said Companies have, under powers vested in them by their Acts, or otherwise vested in them, entered into terminable contracts and arrangements with the *East India* Company, or with the Secretary of State in Council of *India*, with respect to their undertakings, and they have in exercise of such powers, with the sanction of the *East India* Company, or the Secretary of State in Council of *India*, raised capital by the issue of shares or stock, and have borrowed money for their undertakings on the security of mortgages or bonds:

And whereas it is expedient that each of the said Companies should be empowered to create, with the sanction of the Secretary of State in Council of *India*, debenture stock in lieu of borrowing or in substitution for, or for the discharge of, mortgages or bonds:

Be it therefore enacted &c.

Power to each Company to create and issue debenture stock, with the sanction of the Secretary of State in Council of India.

I. Each of the said Companies may from time to time, with the sanction of the Secretary of State in Council of *India*, and of three-fifths of the votes of its shareholders and stockholders entitled to vote in that behalf at meetings of the Company, present in person or by proxy at any extraordinary meeting convened with notice of this purpose, raise all or any part of the money which for the time being the Company has raised or is authorized to raise on mortgage or bond by the creation and issue at such times, in such amounts and manner, on such terms, at such price, subject to such conditions, and with such rights and privileges, as the Secretary of State in Council of *India* shall think fit, of stock to be called debenture stock, instead of and to the same amount as the whole or any part of the money which may for the time being be owing by the Company on mortgage or bond, or which the Company may from time to time have power to raise on mortgage or bond, and may, with such sanction of its shareholders and stockholders as aforesaid, attach to the stock so created such fixed and perpetual irredeemable, redeemable, variable or other interest at such rate, payable half-yearly or otherwise, and commencing at once or at any future time or times, when and as the debenture stock shall be issued or otherwise, as the Secretary of State in Council of *India* shall think fit.

The following provisions to apply to debenture stock.

II. All the provisions following shall apply to every case of one of the said Companies exercising the power hereinbefore given for raising money by the creation and issue of debenture stock; (that is to say)—

Debenture stock to be a prior charge.

(1.) The debenture stock, with the interest thereon, shall be a charge upon the undertaking of the Company prior to all other stock or shares of the Com-

pany, and shall be transmissible and transferable in the same manner and according to the same regulations and provisions as other stock of the Company, and shall in all other respects have the incidents of personal estate.

Interest on debenture stock to be a primary charge.

(2.) The interest on debenture stock shall have priority of payment over all dividends or interest on any other stock or shares of the Company, and shall rank next to the interest payable on the mortgages or bonds for the time being of the Company legally granted before the creation of such stock, but the holders of debenture stock shall not as among themselves be entitled to any preference or priority.

Debenture stock to be registered

(3.) The Company shall cause entries of the debenture stock from time to time created to be made in a register to be kept for that purpose, wherein they shall enter the names and addresses of the several persons and corporations from time to time entitled to the debenture stock, with the respective amounts of the stock to which they are respectively entitled, and any instalments by which the price or subscription for any debenture stock may be made payable shall be recoverable as calls are recoverable under "The Companies Clauses Consolidation Act, 1845."

Company to declare certificate to holders of debenture stock

(4.) The Company shall deliver to every holder of debenture stock a certificate stating the amount of debenture held by him, and all regulations or provisions for the time being applicable to certificates of shares in the capital of the Company shall apply, *mutatis mutandis*, to certificates of debenture stock.

Mortgagees not to be affected by this Act.

(5.) Nothing herein contained shall in any way affect any mortgage or bond at any time legally granted by the Company before the creation of such stock, or any power of the Company to raise money on mortgage or bond, so far as such power is not by this Act expressly extinguished; but the holders of all such mortgages and bonds shall, during the continuance thereof, respectively be entitled to the same priorities, rights, and privileges in all respects as they would have been entitled to if this Act had not been passed.

Holders of debenture stock not to vote.

(6.) The debenture stock shall not entitle the holders thereof to be present or vote at any meeting of the Company, or confer any qualification with reference to the government thereof, but shall in all respects, not otherwise by this Act provided for, be considered as entitling the holders to the rights and powers of mortgagees of the undertaking other than the right to require repayment of the principal money paid up in respect of the debenture stock: Provided always, that if on the issue of any such stock the Company shall have agreed to repay the principal money at a fixed time, the holders thereof shall be entitled to be repaid their principal money at such fixed time.

Application of money raised.

(7.) The money raised by debenture stock shall be applied exclusively either in paying off money due by the Company on mortgage or bond, or else for the

purposes to which the same money would be applicable if it were raised on mortgage or bond instead of on debenture stock; provided always, that the receipt, disposal, and application of all monies raised by the debenture stock shall be at all times and in all respects subject to the supervision, direction and control of the Secretary of State in Council of *India*.

(8.) Separate and distinct accounts shall be kept by the Company showing how much money has been received for or on account of debenture stock, and how much money, borrowed or owing on mortgage or bond for which they have power so to borrow, has been paid off by debenture stock or raised thereby instead of being borrowed on mortgage or bond. Separate accounts to be kept of debenture stock.

(9.) The powers of borrowing and reborrowing by the Company shall, to the extent of the nominal amount of the debenture stock for the time being issued, be extinguished. Borrowing powers extinguished.

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31 VICTORIÆ, CAP. XXIX.

AN ACT *to amend the law relating to Medical Practitioners in the Colonies.*

[29*th May* 1868.]

WHEREAS by the thirty-first section of "The Medical Act" passed in the session holden in the twenty-first and twenty-second years of Her Majesty, Chapter ninety, it is enacted as follows: "Every person registered under this Act shall be entitled, according to his qualification or qualifications, to practise medicine or surgery, or medicine and surgery, as the case may be, in any part of Her Majesty's dominions, and to demand and recover in any Court of Law, with full costs of suit, reasonable charges for professional aid, advice, and visits, and the cost of any medicines or other medical or surgical appliances rendered or supplied by him to his patients:" And whereas it is expedient to amend the said enactment: Be it enacted &c. Preamble.

I. This Act may be cited as "The Medical Act Amendment Act, 1868." Short title.

II. The term "Colony" shall in this Act include all of Her Majesty's possessions abroad in which there shall exist a legislature as hereinafter defined, except the *Channel Islands* and the *Isle of Man*. Interpretation of Act.

The term "Colonial Legislature" shall signify the authority other than the Imperial Parliament or Her Majesty in Council competent to make laws for any colony.

III. Every Colonial legislature shall have full power from time to time to make laws for the purpose of enforcing the registration within its jurisdiction of persons who have been registered under "The Medical Act," anything in the said Act to the contrary notwithstanding: Provided, however, that any person who has been duly registered under "The Medical Act" shall be entitled to be registered in any colony, upon payment of the fees (if any) required for such registration, and upon proof, in such manner as the said Colonial legislature shall direct, of his registration under the said Act. Power to Colonial legislatures to enforce registration of persons registered under "The Medical Act."

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31 & 32 VICTORIÆ, CAP. XXXVII.

AN ACT *to amend the law relating to documentary evidence in certain cases.*

[25*th June* 1868.]

Preamble. WHEREAS it is expedient to amend the law relating to evidence: Be it enacted &c.

Short title. I. This Act may be cited for all purposes as "The Documentary Evidence Act, 1868."

Mode of proving certain documents. II. *Primâ facie* evidence of any proclamation, order, or regulation issued before or after the passing of this Act by Her Majesty, or by the Privy Council, also of any proclamation, order, or regulation issued before or after the passing of this Act by or under the authority of any such Department of the Government or officer as is mentioned in the first column of the schedule hereto, may be given in all Courts of Justice, and in all legal proceedings whatsoever, in all or any of the modes hereinafter mentioned; that is to say:

(1.) By the production of a copy of the Gazette purporting to contain such proclamation, order, or regulation.

(2.) By the production of a copy of such proclamation, order, or regulation purporting to be printed by the Government printer, or, where the question arises in a Court in any *British* colony or possession, of a copy purporting to be printed under the authority of the legislature of such *British* colony or possession.

(3.) By the production, in the case of any proclamation, order, or regulation issued by Her Majesty or by the Privy Council, of a copy or extract purporting to be certified to be true by the clerk of the Privy Council, or by any one of the Lords or others of the Privy Council, and, in the case of any proclamation, order, or regulation issued by or under the authority of any of the said departments or officers, by the production of a copy or extract purporting to be certified to be true by the person or persons specified in the second column of the said schedule in connexion with such department or officer.

Any copy or extract made in pursuance of this Act may be in print or in writing, or partly in print and partly in writing.

No proof shall be required of the handwriting or official position of any person certifying, in pursuance of this Act, to the truth of any copy of or extract from any proclamation, order, or regulation.

Act to be in force in Colonies. III. Subject to any law that may be from time to time made by the legislature of any *British* colony or possession, this Act shall be in force in every such colony and possession.

Punishment of forgery. IV. If any person commits any of the offences following, that is to say—

(1.) Prints any copy of any proclamation, order, or regulation, which falsely purports to have been printed by the Government printer, or to be printed under

the authority of the legislature of any *British* colony or possession, or tenders in evidence any copy of any proclamation, order, or regulation which falsely purports to have been printed as aforesaid, knowing that the same was not so printed; or

(2.) Forges or tenders in evidence, knowing the same to have been forged, any certificate by this Act authorized to be annexed to a copy of or extract from any proclamation, order, or regulation;

he shall be guilty of felony, and shall on conviction be liable to be sentenced to penal servitude for such term as is prescribed by the Penal Servitude Act, 1864, as the least term to which an offender can be sentenced to penal servitude, or to be imprisoned for any term not exceeding two years, with or without hard labour.

Definition of terms.

V. The following words shall in this Act have the meaning hereinafter assigned to them, unless there is something in the context repugnant to such construction; (that is to say)—

"British Colony and Possession."

"*British* Colony and Possession" shall for the purposes of this Act include the *Channel Islands*, the *Isle of Man*, and such territories as may for the time being be vested in Her Majesty by virtue of any Act of Parliament for the government of *India* and all other Her Majesty's dominions.

"Legislature."

"Legislature" shall signify any authority other than the Imperial Parliament or Her Majesty in Council competent to make laws for any colony or possession.

"Privy Council."

"Privy Council" shall include Her Majesty in Council and the Lords and others of Her Majesty's Privy Council, or any of them, and any Committee of the Privy Council that is not specially named in the schedule hereto.

"Government Printer."

"Government Printer" shall mean and include the printer to Her Majesty and any printer purporting to be the printer authorized to print the Statutes, Ordinances, Acts of State, or other public Acts of the legislature of any *British* colony or possession, or otherwise to be the Government printer of such colony or possession.

"Gazette."

"Gazette" shall include the *London Gazette*, the *Edinburgh Gazette*, and the *Dublin Gazette*, or any of such Gazettes.

Act to be cumulative.

VI. The provisions of this Act shall be deemed to be in addition to, and not in derogation of, any powers of proving documents given by any existing Statute or existing at Common Law.

SCHEDULE.

Column 1.	Column 2.
Name of Department or Officer.	Names of Certifying Officers.
The Commissioners of the Treasury.	Any Commissioner, Secretary, or Assistant Secretary of the Treasury.
The Commissioners for executing the office of Lord High Admiral.	Any of the Commissioners for executing the office of Lord High Admiral or either of the Secretaries to the said Commissioners.
Secretaries of State.	Any Secretary or Under-Secretary of State.
Committee of Privy Council for Trade.	Any member of the Committee of Privy Council for Trade or any Secretary or Assistant Secretary of the said Committee.
The Poor-Law Board.	Any Commissioner of the Poor-Law Board or any Secretary or Assistant Secretary of the said Board.

31 & 32 VICTORIÆ, CAP. XXXVIII.

AN ACT *for the appropriation of certain unclaimed shares of prize-money acquired by soldiers and seamen in India.*

[25*th June* 1868.]

BE it enacted &c.

Prize-money to be paid and placed to the credit of the revenues of India;

I. All and every shares and share of booty, prize-money, head-money, bounty-money, and salvage-money, and of money arisen or which shall hereafter arise from, or which is now or shall hereafter be distributable in respect of, any capture or other war-like service whatsoever which has heretofore been or shall hereafter be made or performed, and to which shares or share any officer, soldier, sailor, or other person at any time in or belonging or having belonged to the Forces of the *East India* Company, to Her Majesty's *Indian* Staff Corps, or to Her Majesty's Local *Indian* Forces, *European* or Native, is now or shall hereafter be entitled, in whatsoever service the same may have been acquired, and which shares or share have come into and are now remaining in the hands, or shall hereafter come into the hands, of any prize agent or agents, or any other person whomsoever, shall be paid, according to the residence of the party or parties paying the same, either in *London* into the Bank of *England* to the account of the Secretary of State in Council of *India*, or in *India* into such places and in such manner as the Government in *India* shall direct; and all sums of money when so paid shall be placed to the credit of the revenues of *India*, and shall for all purposes form part of such revenues, and be applicable in all respects as such revenues are or shall be applicable, subject, nevertheless, to be refunded, without interest, to any person or persons entitled to

subject to be refunded without interest.

the same, and establishing his, her, or their claim or claims thereto to the satisfaction of the Secretary of State in Council of *India*.

Times within which payments are to be made.

II. All money now remaining in the hands of any prize agent or agents or any other person or persons whomsoever, and which is hereby directed to be paid and be placed to the credit of the revenues of *India*, and which shall be to be paid in *England*, shall be paid within two calendar months next after the passing of this Act, and all such money which shall be to be paid in *India* shall be paid within six calendar months next after the passing of this Act; and all money which shall hereafter come into the hands of any prize agent or prize agents, or any other person or persons whomsoever, and which is hereby directed to be paid and be placed to the credit of the revenues of *India*, whether the same shall be to be paid in *England* or in *India*, shall be paid within two calendar months next after the receipt thereof by such prize agent or agents or other person or persons.

Power to the Secretary of State in Council to recover monies as herein directed.

III. The Secretary of State in Council of *India* shall have and may exercise the same or the like powers, rights, and remedies, so far as the same shall be applicable for discovery and recovery of and otherwise in relation to or in respect of the monies hereby directed to be paid and to be placed to the credit of the revenues of *India*, as the Commissioners or the Treasurer for the time being of *Chelsea Hospital*, or the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral, or any other persons or person, or any corporation entitled to or interested in any prize-money acquired by or due to any officers, soldiers, or seamen in or belonging to Her Majesty's *European* Military or Naval Forces, have or can exercise by virtue of any Act or Acts now in force for the discovery or recovery of or otherwise in relation to or in respect of such last-mentioned prize-money, and all Courts of Law and Equity and of Admiralty Jurisdiction in the United Kingdom and in *India* shall have and may exercise the same or the like jurisdiction, powers, and authorities for compelling every person to account for and pay over the monies hereby directed to be paid and be placed to the credit of the revenues of *India* as any Court of Law or Equity or of Admiralty Jurisdiction may now exercise with respect to any prize-money acquired by or belonging to any such officers, soldiers, or seamen as last aforesaid; and every person who is required by this Act to pay over any share or shares shall be subject to the like liability to account for the same, and to the like fines and penalties for neglect or default in not accounting for the same, and otherwise, as agents or other persons are, by any Act or Acts now in force, subject to in respect of any shares or balances of prize-money acquired by or belonging to any such officers, soldiers, or seamen as last aforesaid.

Persons required to pay over prize-money to be liable to account.

Nothing in the Act contained to prevent trying rights to prize-money.

IV. Nothing in this Act contained shall prevent any person or persons from resorting to any remedy at law or in equity against the Secretary of State in Council of *India* for the recovery of principal without interest of any money to which he or they may be entitled, and which shall be paid in manner hereinbefore directed, and placed to the credit of the revenues of *India*, provided such person or persons shall prefer his or their claim

thereto to the Secretary of State in Council of *India* within six years from the respective times at which the same money shall be so paid as aforesaid.

Nothing to prejudice any rights or powers the Secretary of State in Council already has to the prize-money.

V. Nothing herein contained shall take away or affect any right which the Secretary of State in Council of *India* now has, or if this Act had not been passed would at any time have had, to or in respect of any monies hereby directed to be paid, nor shall diminish, abridge, or prejudice any rights, powers, or remedies which the Secretary of State in Council of *India* has, or if this Act had not been passed would have had, or could at any time have enforced, for the discovery or recovery of the same monies, or any of them.

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31 & 32 VICTORIÆ, CAP. LXI.

AN ACT *for removing doubts as to the validity of certain marriages between British subjects in China and elsewhere, and for amending the law relating to the marriage of British subjects in Foreign Countries.*

[16*th July* 1868.]

Preamble.

WHEREAS by an Act of the session of the twelfth and thirteenth years of the reign of Her present Majesty, Chapter sixty-eight, intituled *An Act for facilitating the marriage of* British *subjects resident in Foreign Countries*, provision is made for the solemnization of marriages in Foreign Countries, or places where there may be a *British* Consul duly authorized in that behalf, between persons, both or one of whom is or are a *British* subject or *British* subjects, and it is thereby enacted, that every *British* Consul General and Consul appointed or to be appointed to reside in any Foreign Country or place who shall be directed or authorized in writing under the hand of one of Her Majesty's principal Secretaries of State to solemnize and register marriages, and any persons duly authorized to act in the absence of such Consul, shall, in the country or place in which he is so appointed to reside, or in which he is directed or authorized to solemnize or register marriages as aforesaid, be a Consul duly authorized for all the purposes of the said Act:

And whereas marriages have been from time to time solemnized at certain places in *China* and elsewhere between persons, being both or one of them subjects or a subject of this Realm, by persons acting temporarily as Consuls in such places:

And whereas doubts are entertained as to the validity of the said marriages, owing to a question having arisen whether the persons by whom the same were solemnized were duly authorized in that behalf, and it is expedient to remove such doubts as to the said marriages, and as to any marriages which may be celebrated in like manner after the passing of this Act:

Be it enacted &c.

Short title.

I. This Act may be cited for all purposes as "The Consular Marriage Act, 1868."

II. All marriages solemnized before the passing of this Act (both or one of the parties thereto being subjects or a subject of this Realm) by or in the presence of any person acting or purporting to act in the place of a *British* Consul, such Consul being duly authorized to solemnize and register marriages according to the provisions of the said recited Act, shall be as valid in law as if the same had been solemnized by or in the presence of such *British* Consul.

Certain past marriages herein specified confirmed.

III. From and after the passing of this Act, every person acting or legally authorized to act in the place of a *British* Consul, such Consul being duly authorized to solemnize and register marriages between persons (both or one of them being a subject or subjects of this Realm), shall be deemed to be a *British* Consul duly authorized for all the purposes of the said recited Act.

Acting Consuls to have power to solemnize marriages.

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31 & 32 VICTORIÆ, CAP. LXIII.

AN ACT *to enable Commissioners appointed to inquire into the failure of the Bank of Bombay to examine witnesses on oath in the United Kingdom.*

[16*th July* 1868.]

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31 & 32 VICTORIÆ, CAP. XCI.

AN ACT *to settle an annuity upon Lieutenant General Sir Robert Napier, G. C. B., G. C. S. I., and the next surviving heir male of his body, in consideration of his eminent services.*

[31*st July* 1868.]

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31 & 32 VICTORIÆ, CAP. CXXIX.

AN ACT *to amend the law relating to the registration of ships in British possessions.*

[31*st July* 1868.]

Be it enacted &c.

I. The Governor or officer lawfully administering the government of any *British* possession may from time to time, with the approval of one of Her Majesty's principal Secretaries of State, make regulations providing that on an application for registration under the Merchant Shipping Act, 1854, in that possession of any ship not exceeding sixty tons burden, the Registrar may grant, in lieu of a certificate of registry as required by that Act, a certificate of registry to be terminable at the end of six months from the granting thereof, or of any longer period; and all certificates of registry granted under any such regulations shall be in such form and shall have effect subject to such conditions as the regulations prescribe.

Grant of terminable certificates of registry, subject to conditions, in Colonies.

Ship to be deemed registered.

II. Notwithstanding anything in the Merchant Shipping Act, 1854, or in any other Act, any ship to which a certificate is granted under any such regulations shall, while such certificate is in force, and in relation to all things done or omitted during that period, be deemed a registered *British* ship.

Governors abroad may appoint surveyors.

III. The Governor of any *British* possession abroad may from time to time appoint fit and proper persons to be surveyors, who shall have and exercise within such possession all the powers with respect to the inspection of crew-spaces that are conferred upon the Board of Trade surveyors in the United Kingdom by section nine of the Merchant Shipping Act, 1867.

Construction of Act.

IV. This Act shall be read as one Act with the Merchant Shipping Act, 1854, and the Acts amending the same.

Short title.

V. This Act may be cited as the Colonial Shipping Act, 1868.

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32 & 33 VICTORIÆ, CAP. III.

AN ACT *to enable Lord Napier of Magdala to receive the full benefit of the salary of Member of Council for the Presidency of Bombay, or as holding any other office in India, notwithstanding his being in receipt of an annuity granted to him under the Act thirty-one and thirty-two Victoria, Chapter ninety-one.*

[19*th April* 1869.]

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32 & 33 VICTORIÆ, CAP. IV.

AN ACT *for punishing mutiny and desertion, and for the better payment of the Army and their quarters.**

[19*th April* 1869.]

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32 & 33 VICTORIÆ, CAP. VII.

AN ACT *for the confirmation and execution of arrangements made between the Secretary of State in Council of India and the East India Irrigation and Canal Company; and for other purposes connected therewith.*

[19*th April* 1869.]

Preamble.

WHEREAS the East India Irrigation and Canal Company (in this Act and the schedule thereto called the Company) were by the East India Irrigation and Canal Act, 1861, incorporated for the purposes therein mentioned, including the following; namely:—

The construction, improvement, maintenance, and management of works for the irrigation of land, combined, wherever such combination might be consider-

* As the Mutiny Act is altered every year, it is thought inexpedient to print it in this supplement—*Ed.*

ed practicable and advantageous, with navigable canals, and of navigable canals, within the dominions of Her Majesty the Queen known as the East Indies, or in any of the adjacent states and territories:

The rendering navigable and improving the navigation of rivers or waters within such dominions, states, and territories:

The construction, improvement, maintenance, and management of works for the supply of water, and the supply of water to the Secretary of State in Council of India or the Supreme or any of the Local Governments of India, or to any body or person:

The obtaining of all powers, the entering into all contracts, and the doing of all things expedient for or incidental, necessary, or conducive to the attainment of those purposes or any or either of them, either by the Company alone, or jointly with any other Company, or in conjunction with the Secretary of State in Council, or the Supreme or any of the Local or Native Governments of India, or any other body or person;

with a proviso that only such of the purposes aforesaid should be carried into operation as should be agreed on between the Company and the Secretary of State in Council, or the Supreme or any of the Local Governments of India:

And whereas by agreement with the Secretary of State in Council the Company undertook the execution of a scheme of works for irrigation, navigation, and supply of water and other purposes in the districts and deltas of the rivers Mahanuddy, Byturny, and Brahmany, in the province of Orissa, and their affluents, and a main irrigation and navigable canal to connect those works with Calcutta, with subsidiary channels necessary to irrigate and accommodate with means of water-transport the lands of the districts through which the main canal would pass, which scheme of works is known as the Orissa undertaking:

And whereas by The East India Irrigation and Canal Act, 1866, provision was made to the effect that the Orissa undertaking should be deemed a separate undertaking of the Company, and that the capital then already issued by the Company should be appropriated for the purposes of that undertaking, and, with all further capital which the Company might thereafter issue for that undertaking, should be called the Orissa capital, and should be kept separate and distinct from the other capital of the Company, and that the income to be derived from the outlay of that capital should be kept separate and distinct from the other income of the Company:

And whereas, by another agreement with the Secretary of State in Council, the Company undertook the execution of a scheme of works (similar in character to those of the Orissa undertaking) in the Province of Behar, starting from the Soane river, and embracing territory between that river and Chunar on the one side, and Patna on the other side, which scheme of works is known as the Behar undertaking, but no capital has been created in respect of that undertaking:

And whereas, it having appeared to the Secretary of State in Council and to the Company expedient that the Company should transfer to the Secretary of State in Council the Orissa undertaking and the Behar undertaking, and all the rights and interests of the Company therein respectively, agreements for such transfer have been made on the terms appearing in the three instruments described in the schedule to this Act, and those instruments purport to carry into effect or to provide for such transfer; but doubts have been raised whether the Company had power to enter into the said agreements, and it is expedient that provision be made by authority of Parliament for the execution thereof:

Be it enacted &c.

Short title.

I. This Act may be cited as The East India Irrigation and Canal Act, 1869.

Instruments described in schedule confirmed.

II. The three several instruments described in the schedule to this Act (in this Act referred to as the scheduled instruments) are hereby confirmed as on and from their respective dates, and the same shall be, and shall as from those dates respectively be deemed to have been, valid as between the Secretary of State in Council and the Company and binding on them respectively, and shall be carried into execution accordingly.

Certain receipts to discharge Secretary of State from liabilities.

III. A receipt under the common seal of the Company, countersigned by the Secretary of the Company, for any money payable by the Secretary of State in Council to the Company or the Directors thereof, under the scheduled instruments or any of them, shall effectually discharge the Secretary of State in Council from the money therein expressed to be received, and from all liability in respect thereof; and the Secretary of State in Council shall not be concerned to see to the application or responsible for any loss or misapplication thereof.

Application of money paid for Orissa undertaking.

IV. The Directors of the Company shall hold all principal money by the first-mentioned of the scheduled instruments stipulated to be paid to them for and on behalf of the shareholders in the Orissa undertaking by the Secretary of State in Council, when the same is received by them, and all interest received by them in respect thereof from the Secretary of State in Council, on trust to distribute the same among the holders of shares or stock in the Orissa capital, their executors, administrators, or assigns, rateably according to the amounts paid on or in respect of their shares or stock.

Who to be deemed shareholders.

V. The persons who appear in the books of the Company to be proprietors of shares or stock in the Orissa capital shall, unless the contrary is proved to the satisfaction of the Directors of the Company, be considered to be holders of shares or stock in the Orissa capital for the purposes of the distribution of money in pursuance of this Act; and where any share in the Orissa capital has been declared forfeited by the Company, but has not been sold, the same shall for the purposes of the scheduled instruments, but not further or otherwise, be deemed to have reverted as on the twenty-seventh day of November one thousand eight hundred and sixty-eight to the person to whom the same belonged at the time of forfeiture.

VI. The receipt of an executor or administrator of a deceased holder of any share or stock in the Orissa capital, and the receipt of any person competent under the Acts relating to the Company to give a discharge to the Company for any money payable in respect of any such share or stock, shall be an effectual discharge to the Company and to the Directors thereof for any money payable under this Act in respect of any such share or stock and in any such receipt expressed to be received, and shall exonerate the Company and the Directors thereof from any obligation affecting the share or stock in respect of which such money is paid, or in anywise relating to that money. Receipts of executors, &c., effectual discharges.

VII. On receipt by the several holders of shares or stock in the Orissa capital of their respective proportions of the money distributable among them under the scheduled instruments or any of them, those several shareholders or stockholders (except such of them as are for the time being acting as members of a committee for executing any resolution passed by the Company before the passing of this Act under or in contemplation of the scheduled instruments or any of them) shall respectively cease to be members of the Company as holders of such shares or stock, and the shares or stock held by them shall be deemed to be extinguished, and the Orissa capital shall be reduced accordingly; and as soon as all money received by the Directors of the Company in respect of the Orissa undertaking under the scheduled instruments or any of them has been distributed in manner directed by the scheduled instruments or any of them or by this Act, and the affairs of the Orissa undertaking have been wound up, then by virtue of this Act the Orissa undertaking shall cease to be part of the undertaking of the Company, and the Orissa capital shall cease to exist, and the holders of shares or stock therein, excepted as aforesaid, shall cease to be as such members of the Company, and as from the passing of this Act so much of the nominal Orissa capital as is not subscribed for shall be deemed to be extinguished. Discontinuance of Orissa capital.

The SCHEDULE to which the foregoing Act refers.

INSTRUMENTS CONFIRMED.

1. ARTICLES of agreement dated the 30th day of November 1868, made between the Secretary of State in Council of the one part and the Company of the other part, being under the hands and seals of William Urquhart Arbuthnot and Sir Robert Montgomery, K. C. B., G. C. S. I., two members of the Council of India, on behalf of the Secretary of State in Council, and under the seal of the Company.

2. An indenture dated the 21st day of December 1868, made between the Company of the one part and the Secretary of State in Council of the other part, being under the seal of the Company, and under the hands and seals of William Urquhart Arbuthnot and Sir Robert Montgomery, K. C. B., G. C. S. I., two members of the Council of India, on behalf of the Secretary of State in Council.

3. Articles of agreement dated the 21st day of December 1868, indorsed on the first-mentioned articles of agreement, and made between the same parties as those

articles, being under the hands and seals of William Urquhart Arbuthnot and Sir Robert Montgomery, K. C. B., G. C. S. I., two members of the Council of India, on behalf of the Secretary of State in Council, and under the seal of the Company.

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32 & 33 VICTORIÆ, CAP. XI.

AN ACT *for amending the Law relating to the Coasting Trade and Merchant Shipping in British Possessions.*

[13*th May* 1869.]

Be it enacted &c.

Preliminary.

Short title.

I. This Act may be cited as "The Merchant Shipping (Colonial) Act, 1869."

Definition of terms:

II. In this Act, unless the context otherwise requires—

"British possession."

The term "British possession" means any territory or place situate within Her Majesty's dominions, and not forming part of the United Kingdom, or of the Channel Islands, or Isle of Man; and all territories and places under one legislature as hereinafter defined are deemed to be one British possession for the purposes of this Act:

"Legislature."

The term "Legislature" includes any person or persons who exercise legislative authority in the British possession, and, where there are local legislatures as well as a central legislature, means the central legislature only.

Commencement of Act.

III. This Act shall be proclaimed in every British possession by the Governor thereof as soon as may be after he receives notice of this Act, and shall come into operation in that British possession on the day of such proclamation, which day is hereinafter referred to as the commencement of this Act.

Coasting Trade.

Regulation of coasting trade by colonial legislature.

IV. After the commencement of this Act the legislature of a British possession, by any Act or Ordinance, from time to time, may regulate the coasting trade of that British possession, subject in every case to the following conditions:—

(1.) The Act or Ordinance shall contain a suspending clause, providing that such Act or Ordinance shall not come into operation until Her Majesty's pleasure thereon has been publicly signified in the British possession in which it has been passed.

(2.) The Act or Ordinance shall treat all British ships (including the ships of any British possession) in exactly the same manner as ships of the British possession in which it is made.

(3.) Where, by treaty made before the passing of this Act, Her Majesty has agreed to grant to any ships of any foreign state any rights or privileges in respect of the coasting trade of any British possession, such rights and privileges shall be enjoyed by such ships for so long as Her Majesty has already agreed or may hereafter agree to grant the same, anything in the Act or Ordinance to the contrary notwithstanding.

V. The following sections of the Customs Consolidation Act, 1853, are hereby repealed; namely— Sections 328 and 163 of 16 & 17 Vic., c. 107 repealed.

Section three hundred and twenty-eight as from the commencement of this Act:

Section one hundred and sixty-three as from the date, in the case of each British possession, at which either an Act or Ordinance with respect to the coasting trade made within two years after the commencement of this Act in such British possession comes into operation, or, if there is no such Act or Ordinance, at which the said two years expire.

Merchant Shipping.

VI. It shall be lawful for Her Majesty, by Order in Council, from time to time to declare, with respect to the British possession mentioned in the order, the description of persons who are to be registrars of British ships in that British possession, and to revoke any order so made. Registrars of British ships in British possessions.

After the date specified in the order, or, if no date is specified, after the date of the proclamation of the order in the British possession, the order shall have effect as if it were contained in section thirty of the Merchant Shipping Act, 1854.

VII. In the construction of the Merchant Shipping Act, 1854, and of the Acts amending the same, Canada shall be deemed to be one British possession. Application of Merchant Shipping Acts to Canada.

VIII. Where the legislature of any British possession provides for the examination of, and grant of certificates of competency to, persons intending to act as masters, mates, or engineers on board British ships, and the Board of Trade reports to Her Majesty that they are satisfied that the examinations are so conducted as to be equally efficient as the examinations for the same purpose in the United Kingdom under the Acts relating to Merchant Shipping, and that the certificates are granted on such principles as to show the like qualifications and competency as those granted under the said Acts, and are liable to be forfeited for the like reasons and in the like manner, it shall be lawful for Her Majesty, by Order in Council— Colonial certificates to master, mates, and engineers.

(1.) To declare that the said certificates shall be of the same force as if they had been granted under the said Acts:

(2.) To declare that all or any of the provisions of the said Acts which relate to certificates of competency granted under those Acts shall apply to the certificates referred to in the said order:

(8.) To impose such conditions and to make such regulations with respect to the said certificates, and to the use, issue, delivery, cancellation, and suspension thereof, as to Her Majesty may seem fit, and to impose penalties not exceeding fifty pounds for the breach of such conditions and regulations.

Upon the publication in the London Gazette of any such Order in Council as last aforesaid, the provisions therein contained shall, from a date to be mentioned for the purpose in such order, take effect as if they had been contained in this Act.

It shall be lawful for Her Majesty in Council to revoke any order made under this section.

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32 & 33 VICTORIÆ, CAP. XXIX.

AN ACT *to render valid certain Title Deeds for Inam Lands.*

[12*th July* 1869.]

Preamble.
22 & 23 Vic., c. 106.

WHEREAS by an Act passed in the twenty-second and twenty-third years of the reign of Her present Majesty, amending an Act passed in the twenty-first and twenty-second years of the reign of Her present Majesty, intituled "An Act for the better government of India," it was provided that any deed, contract, or other instrument for the purpose of disposing of real estate in India, vested in Her Majesty under the said last-mentioned Act, may be expressed to be executed as on behalf of the Secretary of State for India in Council, by or by order of the Governor General in Council, or the Governor of Fort St. George or of Bombay in Council:

And whereas certain title-deeds have been issued for Inam lands in the Presidency of Fort St. George by the Inam Commissioner in the execution of his office in that respect, in which it is not expressed that they are executed by order of the Governor in Council, and which further purport to have been executed on behalf of the Governor in Council instead of on behalf of the Secretary of State for India in Council:

And whereas it is apprehended that such title-deeds might, under the operation of the Acts above recited, be invalid:

Be it enacted &c.

Title-deeds for Inam lands valid.

I. That no title-deed for Inam lands issued by the Inam Commissioner in the Presidency of Fort St. George up to the date of the passing of this Act shall be deemed invalid on the ground that such deed is not expressed therein to have been executed by order of the Governor in Council, or that it is expressed to have been executed on behalf of the Governor in Council of Fort St. George instead of on behalf of the Secretary of State for India in Council; and all such title-deeds shall be read and have the same effect as if they were expressed to have been executed by order of the Governor in Council and on behalf of the Secretary of State for India in Council.

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32 & 33 VICTORIÆ, CAP. LXXI.

AN ACT *to consolidate and amend the Law of Bankruptcy.*

[*9th August* 1869.]

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Warrants of Bankruptcy Courts.

LXXVI. Any warrant of a Court having jurisdiction in bankruptcy in England under this Act may be enforced in Scotland, Ireland, the Isle of Man, the Channel Islands, and elsewhere in Her Majesty's dominions, in the same manner and subject to the same privileges in and subject to which a warrant issued by any Justice of the Peace against a person for an indictable offence against the laws of England may be executed in such countries respectively in pursuance of the Acts of Parliament in that behalf; and any search-warrant issued by a Court having jurisdiction in bankruptcy under this Act for the discovery of any property of a bankrupt may be executed in manner prescribed or in the same manner and subject to the same privileges in and subject to which a search-warrant for property supposed to be stolen may be executed according to law.

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As to Trustees and Committee of Inspection.

Regulations as to trustees, &c.

LXXXIII. The following regulations shall be made with respect to the trustee and committee of inspection:

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(8). The certificate of appointment of a trustee shall, for all purposes of any law in force in any part of the British dominions requiring registration, enrolment, or recording of conveyances or assignments of property, be deemed to be a conveyance or assignment of property, and may be registered, enrolled, and recorded accordingly:

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32 & 33 VICTORIÆ, CAP. LXXV.

AN ACT *to regulate and extend the jurisdiction of Her Majesty's Consul at Zanzibar in regard to vessels captured on suspicion of being engaged in the Slave Trade, and for other purposes relating thereto.*

[*9th August* 1869.]

Preamble. 6 & 7 Vic., c. 94.

WHEREAS, by the Foreign Jurisdiction Act, 1843, it was amongst other things enacted "that it is and shall be lawful for Her Majesty to hold, exercise, and enjoy any power or "jurisdiction which Her Majesty now hath or may at any time hereafter have within any "country or place out of Her Majesty's dominions, in the same and as ample a manner as if "Her Majesty had acquired such power or jurisdiction by the session or conquest of territory:"

And whereas, by various treaties which have from time to time been made between Her Majesty and the Sultan of Zanzibar, Her Majesty is empowered to exercise jurisdiction within the dominions of the Sultan of Zanzibar in regard to vessels captured on suspicion of being engaged in the slave trade:

And whereas, by an Order of Her Majesty in Council dated the ninth day of August one thousand eight hundred and sixty-six, it was amongst other things ordered that

Her Majesty's Consul within the dominions of the Sultan of Zanzibar, should, for and within the said dominions, and for vessels and persons coming within those dominions, and in regard to vessels captured on suspicion of being engaged in the slave trade within those dominions, have all such jurisdiction as for the time being ordinarily belongs to Courts of Vice-Admiralty in Her Majesty's possessions abroad:

And whereas it is expedient to confirm and extend the jurisdiction conferred by the said Order in Council upon Her Majesty's Consul at Zanzibar, and to regulate the exercise thereof, and to provide for the payment of bounties in respect of vessels condemned by Her Majesty's Consul at Zanzibar:

Be it therefore enacted &c.

Short title.

I. This Act may be cited for all purposes as The Slave Trade Jurisdiction (Zanzibar) Act, 1869.

Jurisdiction of Her Majesty's Consul at Zanzibar in slave trade cases.

II. Her Majesty's Consul at Zanzibar for the time being shall have, and shall be deemed to have always since the commencement of the said Order in Council had, all such jurisdiction as ordinarily belongs to Vice-Admiralty Courts in Her Majesty's possessions abroad in regard to vessels captured on suspicion of being engaged in or equipped for the slave trade, in the following cases:

(1.) Where a Zanzibar vessel shall have been captured in pursuance of any treaty with the Sultan of Zanzibar, either within or beyond the dominions of Zanzibar:

(2.) Where the vessel captured shall not be entitled to claim the protection of the flag of any state or nation.

Provisions of other Acts extended to cases adjudicated under this Act.

III. So far as relates to the matters enumerated in this section, all the provisions for the time being in force in regard to vessels captured on suspicion of being engaged in or equipped for the slave trade, and adjudicated upon in any Vice-Admiralty Court in Her Majesty's possessions abroad, shall apply, *mutatis mutandis*, to all vessels captured on suspicion of being engaged in or equipped for the slave trade, and adjudicated upon by Her Majesty's Consul at Zanzibar in pursuance of the said Order in Council or of this Act; that is to say:

As to persons giving false evidence being deemed guilty of perjury:

As to maintaining and providing for captured slaves pending adjudication:

As to condemning slaves as forfeited to the crown:

As to disposing of slaves after adjudication:

As to breaking up condemned vessels, unless purchased for Her Majesty's service:

As to granting the net proceeds to the captors:

As to rewarding the captors with bounties on the vessel as well as on the slaves:

As to authorizing the Commissioners of Her Majesty's Treasury, if to their discretion it shall seem meet, to order payment of one moiety of the bounty, where slaves may not have been condemned or delivered over in consequence of death, sickness, or other inevitable circumstance:

As to the mode of obtaining such bounties:

As to the mode of paying and distributing the same:

As to authorizing the High Court of Admiralty of England to determine doubtful claims to bounty, and any question of joint capture:

As to authorizing the Commissioners of Her Majesty's Treasury to order payment of costs awarded for vessels detained but not condemned, or to repay to the seizor of any vessel not condemned the expenses incurred by him on account of the seizure:

As to empowering Her Majesty by Order in Council to establish, and from time to time to repeal and alter, rules and tables of fees:

As to the right of appeal to Her Majesty in Council.

This Act to apply to cases already adjudicated.

IV. This Act shall apply to all cases of vessels captured on suspicion of being engaged in or equipped for the slave trade, and adjudicated upon by Her Majesty's Consul at Zanzibar, whether before or after the passing of this Act.

Not to repeal 11 & 12 Vic., c. 128.

V. Nothing in this Act shall be construed as repealing any of the provisions of the Act of the session of the eleventh and twelfth years of Her Majesty's reign, intituled "An Act for carrying into effect the agreement between Her Majesty and the Imaum "of Muscat for the more effectual suppression of the slave trade."

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32 & 33 VICTORIÆ, CAP. LXXVII.

AN ACT *for making better provision for the erection of a Lighthouse on the Great Basses Rock in the Colony of Ceylon, and for other purposes connected therewith.*

[*9th August* 1869.]

Preamble.

WHEREAS by the Merchant Shipping Amendment Act, 1855, the Commissioners of Her Majesty's Treasury and the Public Works Loan Commissioners are authorized to advance sums of money for the purpose of constructing a lighthouse on or near the coasts of any British possession:

And whereas a considerable sum has been advanced by the Commissioners of Her Majesty's Treasury for the establishment of a lightship near the Little Basses Rock, off the coast of Ceylon, part of which has been repaid out of the dues received in respect of such lightship:

And whereas it is expedient to make further provision for the exercise of the said powers for the purpose of the construction of a lighthouse on the Great Basses Rock near the Little Basses Rock:

And whereas the Secretary of State in Council of India has agreed to guarantee one-half of a loan for the purpose of such lighthouse:

Be it enacted &c.

Short title.

I. This Act may be cited as "The Basses Lights Act, 1869."

Construction of Act.

II. This Act shall be construed as one with the Merchant Shipping Act, 1854, and the Merchant Shipping Amendment Act, 1855, in this Act referred to as "the principal Acts."

Loan by Public Works Loan Commissioners.

III. For the purpose of constructing a lighthouse on the said Great Basses Rock, the Public Works Loan Commissioners are hereby required to advance, in pursuance of the principal Acts, out of the monies at their disposal which are applicable for advances under The Harbours and Passing Tolls, &c. Act, 1861, a sum or sums not exceeding in the whole seventy thousand pounds at interest at the rate of three and a quarter per cent. per annum, such sums to be repayable within a period not exceeding fifty years, and to be secured on the fund formed out of the dues mentioned in this Act.

Guarantee of loan.

IV. The Commissioners of Her Majesty's Treasury are hereby authorized to guarantee jointly with the Secretary of State in Council of India the principal and interest of the advances made by the Public Works Loan Commissioners for the purpose aforesaid, not exceeding the sum of seventy thousand pounds.

The Commissioners of Her Majesty's Treasury are hereby authorized to cause to be issued from time to time, out of the growing produce of the Consolidated Fund, such sums of money as may at any time be required to be paid to fulfil the guarantee in respect of one moiety of the said principal and interest.

Amount of dues.

V. The Commissioners of Her Majesty's Treasury shall not give any guarantee under this Act until the dues to be paid in respect of the Great Basses Lighthouse and Little Basses Lightship have been fixed by Order in Council at such rate as they may think sufficient.

So long as such guarantee is in force, the said dues shall not be altered without the consent of the Commissioners of Her Majesty's Treasury, and the Secretary of State in Council of India.

So long as any money is due to the Commissioners of Her Majesty's Treasury in respect of the sums advanced for the Little Basses Lightship the said dues shall not be altered without the consent of those Commissioners.

Accounts to be laid before Parliament.

VI. The Commissioners of Her Majesty's Treasury and the Secretary of State in Council of India shall respectively cause to be prepared and laid before both Houses of Parliament an account of all sums issued and paid respectively for the purposes of the guarantee under this Act within three months after the same are so issued or paid, if Parliament be then sitting, or, if Parliament be not sitting, then within fourteen days after the then next meeting of Parliament.

Application of dues of Great and Little Basses Lights.

VII. The dues levied under the authority of the principal Acts in respect of the lighthouse on the Great Basses Rock, and in respect of the lightship near the Little Basses Rock, after deducting any expenses incurred in collecting the same, shall form one fund, which shall be applied for the purpose of paying the expenses incurred in erecting and

maintaining such lighthouse and lightship, and for no other purpose whatever, and the priority according to which such expenses shall be paid shall (so far as conveniently may be, and subject to any other arrangement made with the consent of the guarantors under this Act) be as follows:—

(1). The expenses of maintaining such lighthouse and lightship:

(2). Then the interest on the unpaid balance of the sum advanced by the Commissioners of Her Majesty's Treasury for the Little Basses Lightship, at the rate of three and a quarter per cent. per annum, and the interest on the unpaid balance of the loan under this Act *pari passu*.

(3). Then the amount for the time being required for repaying the principal of the said advances and loan respectively *pari passu*.

(4). Then the amount required for repaying *pari passu* to the Commissioners of Her Majesty's Treasury and the Secretary of State in Council of India, all sums which they may respectively have paid on account of the guarantee under this Act, with interest on such sums after the rate of five per cent. per annum from the time at which they were paid.

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32 & 33 VICTORIÆ, CAP. LXXXVIII.

AN ACT *for the separation of the Straits Settlements from the diocese of Calcutta.*

[*9th August* 1869.]

Preamble.

WHEREAS, by an Act of the session of the twenty-ninth and thirtieth years of the reign of Her present Majesty, Chapter one hundred and fifteen, and by an Order in Council of the twenty-second day of December one thousand eight hundred and sixty-six, made in pursuance of the said Act, the islands and territories known as the "Straits Settlements," namely, Prince of Wales Island, the Island of Singapore, and the town and fort of Malacca, and their dependencies, ceased to be part of India for the purposes and within the meaning of an Act of the session of the twenty-first and twenty-second years of the reign of Her present Majesty, Chapter one hundred and six:

Recital of 53 G. 3, c. 155 and 3 & 4 W. 4, c. 85.

And whereas, by virtue of an Act passed in the session of the fifty-third year of the reign of King George the Third, Chapter one hundred and fifty-five, and of another Act of the session of the third and fourth years of the reign of King William the Fourth, Chapter eighty-five, and of Letters Patent under the Great Seal of the United Kingdom bearing date respectively the second day of May one thousand eight hundred and fourteen, the thirteenth day of June one thousand eight hundred and thirty-five, and the first day of October one thousand eight hundred and thirty-seven, the said Straits Settlements were before the passing of the said first-recited Act and still are part of the diocese of Calcutta, and subject to the metropolitical authority of the Bishop of that diocese:

And whereas it is expedient that the said Straits Settlements should be separated from the said diocese and cease to be subject to such metropolitical authority:

Be it enacted &c.

Separation of Straits Settlements from diocese of Calcutta.

I. The said recited Acts of Parliament of the reigns of King George the Third and King William the Fourth, and the said Letters Patent shall no longer apply to the said Straits Settlements; and the said Straits Settlements shall from the passing of this Act cease to be part of the said diocese of Calcutta and to be subject to the metropolitical authority of the Bishop of that diocese.

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32 & 33 VICTORIÆ, CAP. XCVII.

AN ACT *to amend in certain respects the Act for the better government of India.*

[11*th August* 1869.]

Preamble.

WHEREAS it is expedient that the Act of the twenty-first and twenty-second years of Victoria, Chapter one hundred and six, intituled "An Act for the better government of India," should be amended as regards the duration of service and the remuneration of members of the Council of India, and in certain other respects:

And whereas it is provided by the said recited Act that every member of the said Council elected or appointed under that Act shall hold his office during good behaviour:

Be it therefore enacted &c.

Vacancies to be filled up by Secretary of State.

I. After the passing of this Act all vacancies that shall take place in the said Council shall be filled up by appointment by the Secretary of State.

Members of Council of India to be in future appointed for ten years.

II. Every member of the said Council who shall, after the passing of this Act, be so appointed, shall be appointed for a term of ten years, and, except as hereinafter provided, shall not be re-eligible.

Re-appointment of member for further period of five years.

III. It shall be lawful for the Secretary of State to re-appoint for a farther period of five years any person whose term of office as member of Council under this Act shall have expired, provided such re-appointment be made for special reasons of public advantage, which reasons shall be set forth in a minute signed by the said Secretary of State, and laid before both Houses of Parliament.

Former Acts to apply to future members.

IV. Except as herein otherwise provided, all the provisions of the said recited Act, and of any other Act of Parliament relating to members of the Council of India, shall apply to members appointed under the provisions of this Act.

Section 14 of 21 & 22 Vic., c. 106 repealed.

V. Section fourteen of the said recited Act for the better government of India is hereby repealed.

As to retiring pensions of existing members of Council.

VI. Any member of Council may, by writing under his hand, which shall be recorded in the minutes of the Council, resign his office; and it shall be lawful for Her Majesty by warrant under Her Sign Manual, countersigned by the Chancellor of the Exchequer, to grant to any member so resigning, out of the revenues of India, if he shall have been elected or appointed before the passing of this Act, and if he shall have

held the said office for the period of ten years and upwards at the date of such resignation, a retiring pension during life of five hundred pounds.

Provision as to future changes in constitution of Council.

VII. If at any time hereafter it should appear to Parliament expedient to reduce the number or otherwise to deal with the constitution of the said Council, no member of Council who has not served in his office for a period of ten years shall be entitled to claim any compensation for the loss of his office, or for any alteration in the terms and condition under which the same is held.

Appointment of ordinary members of the Governor General's Council and of the presidencies.

VIII. The appointments of the ordinary members of the Governor General's Council, and of the members of Council of the several presidencies, which, by section twenty-nine of the said recited Act, are to be made by the Secretary of State in Council, with the concurrence of a majority of members present at a meeting, shall, after the passing of this Act, be made by Her Majesty by warrant under Her Royal Sign Manual.

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32 & 33 VICTORIÆ, CAP. XCVIII.

AN ACT *to define the powers of the Governor General of India in Council at meetings for making Laws and Regulations for certain purposes.*

[11*th August* 1869.]

Preamble.

WHEREAS doubts have arisen as to the extent of power of the Governor General of India in Council to make laws binding upon Native Indian subjects beyond the Indian territories under the dominion of Her Majesty:

And whereas it is expedient that better provision should be made in other respects for the exercise of the power of the Governor General in Council:

Be it enacted &c.

Power to make laws for Native Indian subjects beyond the Indian territories.

I. From and after the passing of this Act, the Governor General of India in Council shall have power at meetings for the purpose of making laws and regulations to make laws and regulations for all persons being Native Indian subjects of Her Majesty, Her heirs and successors, without and beyond as well as within the Indian territories under the dominion of Her Majesty.

Former laws to be valid.

II. No law heretofore passed by the Governor General of India, or by the Governors of Madras and Bombay, respectively in Council, shall be deemed to be invalid solely by reason of its having reference to Native subjects of Her Majesty not within the Indian territories under the dominion of Her Majesty.

Power to repeal or amend certain sections of 3 & 4 W. 4, c. 85.

III. Notwithstanding anything in the Indian Councils' Act or in any other Act of Parliament contained, any law or regulation which shall hereafter be made by the Governor General in Council in manner in the said Indian Councils' Act provided shall not be invalid by reason only that it may repeal or affect any of the provisions of the said Act of the third and fourth years of King William the Fourth, Chapter eighty-five, con-

tained in sections eighty-one, eighty-two, eighty-three, eighty-four, eighty-five and eighty-six of the said Act.*

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32 & 33 VICTORIÆ, CAP. CV.

AN ACT *for empowering the Public Works Loan Commissioners to advance a sum not exceeding two hundred and fifty thousand pounds for the improvement of the harbour of Galle in the colony of Ceylon.*

[11*th August* 1869.]

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32 & 33 VICTORIÆ, CAP. CVI.

AN ACT *to enable the Secretary of State in Council of India to raise money in the United Kingdom for the service of the Government of India.*

[11*th August* 1869.]

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* This section empowered the Council of the Governor General for the purpose of making Laws and Regulations to pass Act XXI of 1869 (*to provide against European Vagrancy*)—*Ed.*

A COLLECTION

OF

STATUTES RELATING TO INDIA,

PASSED BETWEEN

MARCH 1870 AND AUGUST 1870,

BOTH INCLUSIVE,

BEING A

THIRD SUPPLEMENT

TO

"THE LAW RELATING TO INDIA AND THE EAST INDIA COMPANY."

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33 VICTORIÆ, CAP. III.

AN ACT *to make better provision for making Laws and Regulations for certain parts of India, and for certain other purposes relating thereto.*

[25*th March* 1870.]

WHEREAS it is expedient that provision should be made to enable the Governor General of India in Council to make regulations for the peace and good government of certain territories in India, otherwise than at meetings for the purpose of making laws and regulations held under the provisions of The Indian Councils' Act, 1861, and also for certain other purposes connected with the Government of India;

Be it enacted, &c.

Power to Executive Government of British India to make regulations for certain parts thereof.

I. Every Governor of a Presidency in Council, Lieutenant Governor, or Chief Commissioner, whether the Governorship, or Lieutenant Governorship, or Chief Commissionership be now in existence or may hereafter be established, shall have power to propose to the Governor General in Council drafts of any regulations, together with the reasons for proposing the same, for the peace and government of any part or parts of the territories under his government or administration to which the Secretary of State for India shall from time to time by resolution in council declare the provisions of this section to be applicable from any date to be fixed in such resolution.

And the Governor General in Council shall take such drafts and reasons into consideration; and when any such draft shall have been approved of by the Governor General in Council, and shall have received the Governor General's assent, it shall be published in the "Gazette of India" and in the local "Gazette," and shall thereupon have like force of law and be subject to the like disallowances as if it had been made by the Governor General of India in council at a meeting for the purpose of making laws and regulations.

The Secretary of State for India in Council may from time to time withdraw such power from any Governor, Lieutenant Governor, or Chief Commissioner, on whom it has been conferred, and may from time to time restore the same as he shall think fit.

Copies of regulations to be sent to Secretary of State.

II. The Governor General shall transmit to the Secretary of State for India in Council an authentic copy of every regulation which shall have been made under the provisions of this Act; and all laws or regulations hereafter made by the Governor General of India in Council, whether at a meeting for the purpose of making laws and regulations, or under the said provisions, shall control and supersede any regulation in anywise repugnant thereto which shall have been made under the same provisions.

Subsequent enactments to control regulations.

Lieutenant Governors and Chief Commissioners to be members ex officio of the Governor General's Council for the purpose of making laws and regulations.

III. Whenever the Governor General in Council shall hold a meeting for the purpose of making laws and regulations at any place within the limits of any territories now or hereafter placed under the administration of a Lieutenant Governor or a Chief Commissioner, the Lieutenant Governor or Chief Commissioner respectively shall be ex officio an additional member of the Council of the Governor General for that purpose, in excess (if necessary) of the maximum number of twelve specified by the said Act.

Section 49 of 3 & 4 W. 4, c. 85, repealed.

IV. Section forty-nine of the Act of the third and fourth years of King William the Fourth, chapter eighty-five, is hereby repealed.

Procedure in case of difference between the Governor General and the majority of his Council.

V. Whenever any measure shall be proposed before the Governor General of India in Council whereby the safety, tranquillity, or interests of the British possessions in India, or any part thereof, are or may be, in the judgment of the said Governor General, essentially affected, and he shall be of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected, and the majority in Council then present shall dissent from such opinion, the Governor General may, on his own authority and responsibility, suspend or reject the measure in part or in whole, or adopt and carry it into execution, but in every such case any two members of the dissentient majority may require that the said suspension, rejection, or adoption, as well as the fact of their dissent, shall be notified to the Secretary of State for India, and such notification shall be accompanied by copies of the minutes (if any) which the members of the council shall have recorded on the subject.

Power to appoint Natives of India to certain offices without certificate from the Civil Service Commissioners.

VI. Whereas it is expedient that additional facilities should be given for the employment of Natives of India, of proved merit and ability, in the Civil Service of Her Majesty in India: Be it enacted, that nothing in the "Act for the government of India," twenty-one and twenty-two Victoria, chapter one hundred and six, or in the

"Act to confirm certain appointments in India, and to amend the law concerning the Civil Service there," twenty-four and twenty-five Victoria, chapter fifty-four, or in any other Act of Parliament or other law now in force in India, shall restrain the authorities in India by whom appointments are or may be made to offices, places, and employments in the Civil Service of Her Majesty in India from appointing any Native of India to any such office, place, or employment, although such Native shall not have been admitted to the said Civil Service of India in manner in section thirty-two of the first-mentioned Act provided, but subject to such rules as may be from time to time prescribed by the Governor General in Council, and sanctioned by the Secretary of State in Council, with the concurrence of a majority of members present; and that for the purpose of this Act the words "Natives of India" shall include any person born and domiciled within the dominions of Her Majesty in India, of parents habitually resident in India, and not established there for temporary purposes only; and that it shall be lawful for the Governor General in Council to define and limit from time to time the qualification of Natives of India thus expressed; provided that every resolution made by him for such purpose shall be subject to the sanction of the Secretary of State in Council, and shall not have force until it has been laid for thirty days before both Houses of Parliament.

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33 VICTORIÆ, CAP. VII.

AN ACT *for punishing mutiny and desertion, and for the better payment of the Army and their quarters.*

[*4th April* 1870.]

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33 VICTORIÆ, CAP. XIV.

AN ACT *to amend the law relating to the legal condition of Aliens and British Subjects.*

[*12th May* 1870.]

WHEREAS it is expedient to amend the law relating to the legal condition of aliens and British subjects:

Be it enacted, &c.

I. This Act may be cited for all purposes as "The Naturalization Act, 1870." Short title.

Status of Aliens in the United Kingdom.

II. Real and personal property of every description may be taken, acquired, held, and disposed of by an alien in the same manner in all respects as by a natural-born British subject; and a title to real and personal property of every description may be derived through, from, or in succession to an alien, in the same manner in all respects as through, from, or in succession to a natural-born British subject: Provided,— Capacity of an alien as to property.

(1.) That this section shall not confer any right on an alien to hold real property situate out of the United Kingdom, and shall not qualify an alien for any office or for any municipal, parliamentary, or other franchise:

(2.) That this section shall not entitle an alien to any right or privilege as a British subject, except such rights and privileges in respect of property as are hereby expressly given to him:

(3.) That this section shall not affect any estate or interest in real or personal property to which any person has or may become entitled, either mediately or immediately, in possession or expectancy, in pursuance of any disposition made before the passing of this Act, or in pursuance of any devolution by law on the death of any person dying before the passing of this Act.

Power of naturalized aliens to divest themselves of their status in certain cases.

III. Where Her Majesty has entered into a convention with any Foreign State to the effect that the subjects or citizens of that State who have been naturalized as British subjects may divest themselves of their status as such subjects, it shall be lawful for Her Majesty, by Order in Council, to declare that such convention has been entered into by Her Majesty; and from and after the date of such Order in Council, any person being originally a subject or citizen of the State referred to in such Order, who has been naturalized as a British subject, may, within such limit of time as may be provided in the convention, make a declaration of alienage, and from and after the date of his so making such declaration such person shall be regarded as an alien, and as a subject of the State to which he originally belonged as aforesaid.

A declaration of alienage may be made as follows; that is to say,—If the declarant be in the United Kingdom, in the presence of any justice of the peace, if elsewhere in Her Majesty's dominions, in the presence of any judge of any court of civil or criminal jurisdiction, of any justice of the peace, or of any other officer for the time being authorized by law, in the place in which the declarant is, to administer an oath for any judicial or other legal purpose. If out of Her Majesty's dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty.

How British-born subject may cease to be such.

IV. Any person who, by reason of his having been born within the dominions of Her Majesty, is a natural-born subject, but who also at the time of his birth became under the law of any Foreign State a subject of such State, and is still such subject, may, if of full age and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration of alienage such person shall cease to be a British subject. Any person who is born out of Her Majesty's dominions of a father being a British subject may, if of full age and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration shall cease to be a British subject.

Alien not entitled to jury *de medietate linguæ*.

V. From and after the passing of this Act, an alien shall not be entitled to be tried by a jury *de medietate linguæ*, but shall be triable in the same manner as if he were a natural-born subject.

Expatriation.

VI. Any British subject who has at any time before, or may at any time after the passing of this Act, when in any Foreign State and not under any disability, voluntarily become naturalized in such State, shall from and after the time of his so having become naturalized in such Foreign State, be deemed to have ceased to be a British subject and be regarded as an alien; Provided,— Capacity of British subject to renounce allegiance to Her Majesty.

(1.) That where any British subject has before the passing of this Act voluntarily become naturalized in a Foreign State and yet is desirous of remaining a British subject, he may, at any time within two years after the passing of this Act, make a declaration that he is desirous of remaining a British subject; and upon such declaration, herein-after referred to as a declaration of British nationality, being made, and upon his taking the oath of allegiance, the declarant shall be deemed to be and to have been continually a British subject; with this qualification, that he shall not, when within the limits of the Foreign State in which he has been naturalized, be deemed to be a British subject, unless he has ceased to be a subject of that State in pursuance of the laws thereof, or in pursuance of a treaty to that effect:

(2.) A declaration of British nationality may be made, and the oath of allegiance be taken as follows; that is to say,—if the declarant be in the United Kingdom, in the presence of a justice of the peace; if elsewhere in Her Majesty's dominions, in the presence of any judge of any court of civil or criminal jurisdiction, of any justice of the peace, or of any other officer for the time being authorised by law, in the place in which the declarant is, to administer an oath for any judicial or other legal purpose. If out of Her Majesty's dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty.

Naturalization and Resumption of British Nationality.

VII. An alien who, within such limited time before making the application herein-after mentioned as may be allowed by one of Her Majesty's Principal Secretaries of State, either by general order or on any special occasion, has resided in the United Kingdom for a term of not less than five years, or has been in the service of the Crown for a term of not less than five years, and intends, when naturalized, either to reside in the United Kingdom, or to serve under the Crown, may apply to one of Her Majesty's Principal Secretaries of State for a certificate of naturalization. Certificate of naturalization.

The applicant shall adduce in support of his application such evidence of his residence or service, and intention to reside or serve, as such Secretary of State may require. The said Secretary of State, if satisfied with the evidence adduced, shall take the case of the applicant into consideration, and may, with or without assigning any reason, give or withhold a certificate as he thinks most conducive to the public good, and no appeal

shall lie from his decision, but such certificate shall not take effect until the applicant has taken the oath of allegiance.

An alien to whom a certificate of naturalization is granted shall in the United Kingdom be entitled to all political and other rights, powers, and privileges, and be subject to all obligations, to which a natural-born British subject is entitled or subject in the United Kingdom, with this qualification, that he shall not, when within the limits of the Foreign State of which he was a subject previously to obtaining his certificate of naturalization, be deemed to be a British subject unless he has ceased to be a subject of that State in pursuance of the laws thereof, or in pursuance of a treaty to that effect.

The said Secretary of State may in manner aforesaid grant a special certificate of naturalization to any person with respect to whose nationality as a British subject a doubt exists, and he may specify in such certificate that the grant thereof is made for the purpose of quieting doubts as to the right of such person to be a British subject, and the grant of such special certificate shall not be deemed to be any admission that the person to whom it was granted was not previously a British subject.

An alien who has been naturalized previously to the passing of this Act may apply to the Secretary of State for a certificate of naturalization under this Act, and it shall be lawful for the said Secretary of State to grant such certificate to such naturalized alien upon the same terms and subject to the same conditions in and upon which such certificate might have been granted if such alien had not been previously naturalized in the United Kingdom.

Certificate of re-admission to British nationality.

VIII. A natural-born British subject who has become an alien in pursuance of this Act, and is in this Act referred to as a statutory alien, may, on performing the same conditions and adducing the same evidence as is required in the case of an alien applying for a certificate of nationality, apply to one of Her Majesty's Principal Secretaries of State for a certificate herein-after referred to as a certificate of re-admission to British nationality, re-admitting him to the status of a British subject. The said Secretary of State shall have the same discretion as to the giving or withholding of the certificate as in the case of a certificate of naturalization, and an oath of allegiance shall in like manner be required previously to the issuing of the certificate.

A statutory alien to whom a certificate of re-admission to British nationality has been granted shall, from the date of the certificate of re-admission, but not in respect of any previous transaction, resume his position as a British subject; with this qualification, that within the limits of the Foreign State of which he became a subject he shall not be deemed to be a British subject unless he has ceased to be a subject of that Foreign State according to the laws thereof, or in pursuance of a treaty to that effect.

The jurisdiction by this Act conferred on the Secretary of State in the United Kingdom in respect of the grant of a certificate of re-admission to British nationality, in the case of any statutory alien being in any British possession, may be exercised by the

governor of such possession; and residence in such possession shall, in the case of such person, be deemed equivalent to residence in the United Kingdom.

IX. The oath in this Act referred to as the oath of allegiance shall be in the form following; that is to say, Form of oath of allegiance.

"I do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors, according to law. So help me GOD."

National Status of married Women and infant Children.

X. The following enactments shall be made with respect to the national status of women and children: National status of married women and infant children.

(1.) A married woman shall be deemed to be a subject of the State of which her husband is for the time being a subject:

(2.) A widow being a natural-born British subject, who has become an alien by or in consequence of her marriage, shall be deemed to be a statutory alien, and may as such at any time during widowhood obtain a certificate of re-admission to British nationality in manner provided by this Act:

(3.) Where the father being a British subject, or the mother being a British subject and a widow, becomes an alien in pursuance of this Act, every child of such father or mother who during infancy has become resident in the country where the father or mother is naturalized, and has, according to the laws of such country, become naturalized therein, shall be deemed to be a subject of the State of which the father or mother has become a subject, and not a British subject:

(4.) Where the father, or the mother being a widow, has obtained a certificate of re-admission to British nationality, every child of such father or mother who during infancy has become resident in the British dominions with such father or mother, shall be deemed to have resumed the position of a British subject to all intents:

(5). Where the father, or the mother being a widow, has obtained a certificate of naturalization in the United Kingdom, every child of such father or mother who during infancy has become resident with such father or mother in any part of the United Kingdom, shall be deemed to be a naturalized British subject.

Supplemental Provisions.

XI. One of Her Majesty's Principal Secretaries of State may by regulation provide for the following matters:— Regulations as to registration.

(1.) The form and registration of declarations of British nationality

(2.) The form and registration of certificates of naturalization in the United Kingdom:

(3.) The form and registration of certificates of re-admission to British nationality:

(4.) The form and registration of declarations of alienage:

(5.) The registration by officers in the diplomatic or consular service of Her Majesty of the births and deaths of British subjects who may be born or die out of Her Majesty's dominions, and of the marriages of persons married at any of Her Majesty's embassies or legations:

(6.) The transmission to the United Kingdom, for the purpose of registration or safe keeping or of being produced as evidence, of any declarations or certificates made in pursuance of this Act out of the United Kingdom, or of any copies of such declarations or certificates, also of copies of entries contained in any register kept out of the United Kingdom in pursuance of or for the purpose of carrying into effect the provisions of this Act:

(7.) With the consent of the Treasury the imposition and application of fees in respect of any registration authorised to be made by this Act, and in respect of the making any declaration or the grant of any certificate authorised to be made or granted by this Act.

The said Secretary of State, by a further Regulation, may repeal, alter, or add to any Regulation previously made by him in pursuance of this section.

Any Regulation made by the said Secretary of State in pursuance of this section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if it had been enacted in this Act, but shall not, so far as respects the imposition of fees, be in force in any British possession, and shall not, so far as respects any other matter, be in force in any British possession in which any Act or Ordinance to the contrary of or inconsistent with any such direction may for the time being be in force.

Regulations as to evidence.

XII. The following Regulations shall be made with respect to evidence under this Act:—

(1.) Any declaration authorised to be made under this Act may be proved in any legal proceeding by the production of the original declaration, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorised by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such declaration, and the production of such declaration or copy shall be evidence of the person therein named as declarant having made the same at the date in the said declaration mentioned:

(2.) A certificate of naturalization may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorised by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such certificate:

(3.) A certificate of re-admission to British nationality may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorised by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such certificate:

(4.) Entries in any register authorised to be made in pursuance of this Act shall be proved by such copies and certified in such manner as may be directed by one of Her Majesty's Principal Secretaries of State, and the copies of such entries shall be evidence of any matters by this Act or by any regulation of the said Secretary of State authorised to be inserted in the register:

(5.) The Documentary Evidence Act, 1868, shall apply to any regulation made by a Secretary of State, in pursuance of or for the purpose of carrying into effect any of the provisions of this Act.

Miscellaneous.

Saving of letters of denization.

XIII. Nothing in this Act contained shall affect the grant of letters of denization by He Majesty.

Saving as to British ships.

XIV. Nothing in this Act contained shall qualify an alien to be the owner of a British ship.

Saving of allegiance prior to expatriation.

XV. Where any British subject has in pursuance of this Act become an alien, he shall not thereby be discharged from any liability in respect of any acts done before the date of his so becoming an alien.

Power of colonies to legislate with respect to naturalization.

XVI. All laws, statutes, and ordinances which may be duly made by the legislature of any British possession for imparting to any person the privileges, or any of the privileges, of naturalization, to be enjoyed by such person within the limits of such possession, shall within such limits have the authority of law, but shall be subject to be confirmed or disallowed by Her Majesty in the same manner, and subject to the same rules in and subject to which Her Majesty has power to confirm or disallow any other laws, statutes, or ordinances in that possession.

Definition of terms.

XVII. In this Act, if not inconsistent with the context or subject-matter thereof,—

"Disability" shall mean the status of being an infant, lunatic, idiot, or married woman:

"British possession" shall mean any colony, plantation, island, territory, or settlement within Her Majesty's dominions, and not within the United Kingdom, and all territories and places under one legislature are deemed to be one British possession for the purposes of this Act:

"The Governor of any British possession" shall include any person exercising the chief authority in such possession:

"Officer in the Diplomatic Service of Her Majesty" shall mean any Ambassador, Minister or Chargé d' Affaires, or Secretary of Legation, or any person appointed by such Ambassador, Minister, Chargé d' Affaires, or Secretary of Legation to execute any duties imposed by this Act on an officer in the Diplomatic Service of Her Majesty:

"Officer in the Consular Service of Her Majesty" shall mean and include Consul-General, Consul, Vice-Consul, and Consular Agent, and any person for the time being discharging the duties of Consul-General, Consul, Vice-Consul, and Consular Agent.

Repeal of Acts mentioned in Schedule.

Repeal of Acts

XVIII. The several Acts set forth in the first and second parts of the schedule annexed hereto shall be wholly repealed, and the Acts set forth in the third part of the said schedule shall be repealed to the extent therein mentioned; provided that the repeal enacted in this Act shall not affect—

(1.) Any right acquired or thing done before the passing of this Act:

(2.) Any liability accruing before the passing of this Act:

(3.) Any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before the passing of this Act:

(4.) The institution of any investigation or legal proceeding or any other remedy for ascertaining or enforcing any such liability, penalty, forfeiture, or punishment as aforesaid.

SCHEDULE.

NOTE.—Reference is made to the repeal of the "whole Act" where portions have been repealed before, in order to preclude henceforth the necessity of looking back to previous Acts.

This Schedule, so far as respects Acts prior to the reign of George the Second, other than Acts of the Irish Parliament, refers to the edition prepared under the direction of the Record Commission, intituled "The Statutes of the Realm; printed by Command of His Majesty King George the Third, in pursuance of an Address of the House of Commons of Great Britain. From original Records and authentic Manuscripts."

PART I.

ACTS WHOLLY REPEALED, OTHER THAN ACTS OF THE IRISH PARLIAMENT.

Date.	Title.
7 Jas. 1. c. 2 .	An Act that all such as are to be naturalized or restored in blood shall first receive the sacrament of the Lord's Supper, and the oath of allegiance, and the oath of supremacy.
11 Will. 3. c. 6. (*a*) ...	An Act to enable His Majesty's natural-born subjects to inherit the estate of their ancestors, either lineal or collateral, notwithstanding their father or mother were aliens.

ACTS WHOLLY REPEALED, OTHER THAN ACTS OF THE IRISH PARLIAMENT—*continued.*

Date.	Tittle.
13 Geo. 2. c. 7 ...	An Act for naturalizing such foreign Protestants and others therein mentioned, as are settled or shall settle in any of His Majesty's colonies in America.
20 Geo. 2. c. 44	An Act to extend the provisions of an Act made in the thirteenth year of His present Majesty's reign, intituled "An Act for naturalizing foreign Protestants and others therein mentioned, as are settled or shall settle in any of His Majesty's colonies in America, to other foreign Protestants who conscientiously scruple the taking of an oath."
13 Geo. 3. c. 25	An Act to explain two Acts of Parliament, one of the thirteenth year of the reign of His late Majesty, "for naturalizing such foreign Protestants and others as are settled or shall settle in any of His Majesty's colonies in America," and the other of the second year of the reign of His present Majesty, "for naturalizing such foreign Protestants as have served or shall serve as officers or soldiers in His Majesty's Royal American regiment, or as engineers in America."
14 Geo. 3. c. 84	An Act to prevent certain inconveniences that may happen by bills of naturalization.
16 Geo. 3. c. 52	An Act to declare His Majesty's natural-born subjects inheritable to the estates of their ancestors, whether lineal or collateral, in that part of Great Britain called Scotland, notwithstanding their father or mother were aliens.
6 Geo. 4. c. 67	An Act to alter and amend an Act passed in the seventh year of the reign of His Majesty King James the First, intituled "An Act that all such as are to be naturalized or restored in blood shall first receive the sacrament of the Lord's Supper and the oath of allegiance and the oath of supremacy."
7 & 8 Vict. c. 66	An Act to amend the laws relating to aliens.
10 & 11 Vict. c. 83 ...	An Act for the naturalization of aliens.

(*a.*) 11 & 12 Wm. 3. (Ruff.)

PART II.

ACTS OF THE IRISH PARLIAMENT WHOLLY REPEALED.

Date.	Title.
14 & 15 Chas. 2. c. 13 ...	An Act for encouraging Protestant strangers and other to inhabit and plant in the Kingdom of Ireland.
2 Anne, c. 14	An Act for naturalizing of all Protestant strangers in this kingdom.
19 & 20 Geo. 3. c. 29 ...	An Act for naturalizing such foreign merchants, traders, artificers, artizans, manufacturers, workmen, seamen, farmers, and others as shall settle in this kingdom.
23 & 24 Geo. 3. c. 38 ...	An Act for extending the provisions of an Act passed in this kingdom in the nineteenth and twentieth years of His Majesty's reign, intituled "An Act for naturalizing such foreign merchants, traders, artificers, artizans, manufacturers, workmen, seamen, farmers, and others as shall settle in this kingdom."
36 Geo. 3. c. 48	An Act to explain and amend an Act, intituled "An Act for naturalizing such foreign merchants, traders, artificers, artizans, manufacturers, workmen, seamen, farmers, and others who shall settle in this kingdom."

PART III.

ACTS PARTIALLY REPEALED.

Date.	Title.	Extent of Repeal.
4 Geo. 1. c. 9 ... ... (Act of Irish Parliament)	An Act for reviving, continuing, and amending several statutes made in this kingdom heretofore temporary.	So far as it makes perpetual the Act of 2 Anne, c. 14.
6 Geo. 4 c. 50	An Act for consolidating and amending the laws relative to Jurors and Juries.	The whole of sect. 47.
3 & 4 Will. 4. c. 91 ...	An Act consolidating and amending the laws relating to Jurors and Juries in Ireland.	The whole of sect. 37.

33 & 34 VICTORIÆ, CAP. LII.

AN ACT *for amending the Law relating to the Extradition of Criminals.*

[*9th August* 1870.]

WHEREAS it is expedient to amend the law relating to the surrender to Foreign States of persons accused or convicted of the commission of certain crimes within the jurisdiction of such States, and to the trial of criminals surrendered by Foreign States to this country: Be it enacted, &c.

Preliminary.

Short title.

I. This Act may be cited as "The Extradition Act, 1870."

Where arrangement for surrender of criminals made, order in Council to apply Act.

II. Where an arrangement has been made with any Foreign State with respect to the surrender to such State of any fugitive criminals, Her Majesty may, by order in Council, direct that this Act shall apply in the case of such Foreign State.

Her Majesty may, by the same or any subsequent order, limit the operation of the order, and restrict the same to fugitive criminals who are in or suspected of being in the part of Her Majesty's dominions specified in the order, and render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient.

Every such order shall recite or embody the terms of the arrangement, and shall not remain in force for any longer period than the arrangement.

Every such order shall be laid before both Houses of Parliament within six weeks after it is made, or, if Parliament be not then sitting, within six weeks after the then next meeting of parliament, and shall also be published in the London Gazette.

III. The following restrictions shall be observed with respect to the surrender of fugitive criminals: Restrictions on surrender of criminals.

(1) A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove to the satisfaction of the police magistrate or the court before whom he is brought on *habeas corpus*, or to the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character:

(2) A fugitive criminal shall not be surrendered to a Foreign State unless provision is made by the law of that State, or by arrangement, that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried in that Foreign State for any offence committed prior to his surrender other than the extradition crime proved by the facts on which the surrender is grounded:

(3) A fugitive criminal who has been accused of some offence within English jurisdiction, not being the offence for which his surrender is asked, or is undergoing sentence under any conviction in the United Kingdom, shall not be surrendered until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise:

(4) A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

IV. An order in Council for applying this Act in the case of any Foreign State shall not be made unless the arrangement— Provisions of arrangement for surrender.

(1) provides for the determination of it by either party to it after the expiration of a notice not exceeding one year; and

(2) is in conformity with the provisions of this Act, and in particular with the restrictions on the surrender of fugitive criminals contained in this Act.

V. When an order applying this Act in the case of any Foreign State has been published in the London Gazette, this Act (after the date specified in the order, or if no date is specified, after the date of the publication,) shall, so long as the order remains in force, but subject to the limitations, restrictions, conditions, exceptions, and qualifications, if any, contained in the order, apply in the case of such Foreign State. An order in Council shall be conclusive evidence that the arrangement therein referred to complies with the requisitions of this Act, and that this Act applies in the case of the Foreign State mentioned in the order, and the validity of such order shall not be questioned in any legal proceedings whatever. Publication and effect of order.

VI. Where this Act applies in the case of any Foreign State, every fugitive criminal of that State who is in or suspected of being in any part of Her Majesty's Liability of criminal to surrender.

dominions, or that part which is specified in the order applying this Act (as the case may be), shall be liable to be apprehended and surrendered in manner provided by this Act, whether the crime in respect of which the surrender is sought was committed before or after the date of the order, and whether there is or is not any concurrent jurisdiction in any Court of Her Majesty's dominions over that crime.

Order of Secretary of State for issue of warrant in United Kingdom if crime is not of a political character.

VII. A requisition for the surrender of a fugitive criminal of any Foreign State, who is in or suspected of being in the United Kingdom, shall be made to a Secretary of State by some person recognized by the Secretary of State as a diplomatic representative of that Foreign State. A Secretary of State may, by order under his hand and seal, signify to a police magistrate that such requisition has been made, and require him to issue his warrant for the apprehension of the fugitive criminal.

If the Secretary of State is of opinion that the offence is one of a political character, he may, if he think fit, refuse to send any such order, and may also at any time order a fugitive criminal accused or convicted of such offence to be discharged from custody.

Issue of warrant by police magistrate, justice, &c.

VIII. A warrant for the apprehension of a fugitive criminal, whether accused or convicted of crime, who is in or suspected of being in the United Kingdom, may be issued—

(1) by a police magistrate on the receipt of the said order of the Secretary of State, and on such evidence as would in his opinion justify the issue of the warrant if the crime had been committed or the criminal convicted in England; and

(2) by a police magistrate or any justice of the peace in any part of the United Kingdom, on such information or complaint and such evidence or after such proceedings as would in the opinion of the person issuing the warrant justify the issue of a warrant if the crime had been committed or the criminal convicted in that part of the United Kingdom in which he exercises jurisdiction.

Any person issuing a warrant under this section without an order from a Secretary of State shall forthwith send a report of the fact of such issue, together with the evidence and information or complaint, or certified copies thereof, to a Secretary of State, who may if he think fit order the warrant to be cancelled, and the person who has been apprehended on the warrant to be discharged.

A fugitive criminal, when apprehended on a warrant issued without the order of a Secretary of State, shall be brought before some person having power to issue a warrant under this section, who shall by warrant order him to be brought and the prisoner shall accordingly be brought before a police magistrate.

A fugitive criminal apprehended on a warrant issued without the order of a Secretary of State shall be discharged by the police magistrate, unless the police magistrate,

within such reasonable time as, with reference to the circumstances of the case, he may fix, receives from a Secretary of State an order signifying that a requisition has been made for the surrender of such criminal.

Hearing of case and evidence of political character of crime.

IX. When a fugitive criminal is brought before the police magistrate, the police magistrate shall hear the case in the same manner, and have the same jurisdiction and powers, as near as may be, as if the prisoner were brought before him charged with an indictable offence committed in England.

Committal or discharge of prisoner.

The police magistrate shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

X. In the case of a fugitive criminal accused of an extradition crime, if the foreign warrant authorizing the arrest of such criminal is duly authenticated, and such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, justify the committal for trial of the prisoner if the crime of which he is accused had been committed in England, the police magistrate shall commit him to prison, but otherwise shall order him to be discharged.

In the case of a fugitive criminal alleged to have been convicted of an extradition crime, if such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, prove that the prisoner was convicted of such crime, the police magistrate shall commit him to prison, but otherwise shall order him to be discharged.

If he commits such criminal to prison, he shall commit him to the Middlesex House of Detention, or to some other prison in Middlesex, there to await the warrant of a Secretary of State for his surrender, and shall forthwith send to a Secretary of State a certificate of the committal, and such report upon the case as he may think fit.

Surrender of fugitive to Foreign State by warrant of Secretary of State.

XI. If the police magistrate commits a fugitive criminal to prison, he shall inform such criminal that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of *habeas corpus*.

Upon the expiration of the said fifteen days, or, if a writ of *habeas corpus* is issued after the decision of the court upon the return to the writ, as the case may be, or after such further period as may be allowed in either case by a Secretary of State, it shall be lawful for a Secretary of State, by warrant under his hand and seal, to order the fugitive criminal (if not delivered on the decision of the Court) to be surrendered to such person as may in his opinion be duly authorized to receive the fugitive criminal by the Foreign State from which the requisition for the surrender proceeded, and such fugitive criminal shall be surrendered accordingly.

It shall be lawful for any person to whom such warrant is directed and for the person so authorized as aforesaid to receive, hold in custody, and convey within the jurisdic-

tion of such Foreign State the criminal mentioned in the warrant; and if the criminal escapes out of any custody to which he may be delivered on or in pursuance of such warrant, it shall be lawful to retake him in the same manner as any person accused of any crime against the laws of that part of Her Majesty's dominions to which he escapes may be retaken upon an escape.

Discharge of persons apprehended if not conveyed out of United Kingdom within two months.

XII. If the fugitive criminal who has been committed to prison is not surrendered and conveyed out of the United Kingdom within two months after such committal, or, if a writ of *habeas corpus* is issued, after the decision of the Court upon the return to the writ, it shall be lawful for any judge of one of Her Majesty's superior Courts at Westminster, upon application made to him by or on behalf of the criminal, and upon proof that reasonable notice of the intention to make such application has been given to a Secretary of State, to order the criminal to be discharged out of custody, unless sufficient cause is shown to the contrary.

Execution of warrant of police magistrate.

XIII. The warrant of the police magistrate issued in pursuance of this Act may be executed in any part of the United Kingdom in the same manner as if the same had been originally issued or subsequently indorsed by a justice of the peace having jurisdiction in the place where the same is executed.

Depositions to be evidence, 6 & 7 Vict., c 76

XIV. Depositions or statements on oath, taken in a Foreign State, and copies of such original depositions or statements, and foreign certificates of or judicial documents stating the fact of conviction, may, if duly authenticated, be received in evidence in proceedings under this Act.

Authentication of depositions and warrants, 29 & 30 Vict., c 121.

XV. Foreign warrants and depositions or statements on oath, and copies thereof, and certificates of or judicial documents stating the fact of a conviction, shall be deemed duly authenticated for the purposes of this Act if authenticated in manner provided for the time being by law or authenticated as follows:

(1.) If the warrant purports to be signed by a judge, magistrate, or officer of the Foreign State where the same was issued;

(2.) If the depositions or statements or the copies thereof purport to be certified under the hand of a judge, magistrate, or officer of the Foreign State where the same were taken to be the original depositions or statements, or to be true copies thereof, as the case may require; and

(3.) If the certificate of or judicial document stating the fact of conviction purports to be certified by a judge, magistrate, or officer of the Foreign State where the conviction took place; and

if in every case the warrants, depositions, statements, copies, certificates, and judicial documents (as the case may be) are authenticated by the oath of some witness or by being sealed with the official seal of the minister of justice, or some other minister of State:

And all courts of justice, justices, and magistrates shall take judicial notice of such official seal, and shall admit the documents so authenticated by it to be received in evidence without further proof.

Crimes committed at sea.

Jurisdiction as to crimes committed at sea.

XVI. Where the crime in respect of which the surrender of a fugitive criminal is sought was committed on board any vessel on the high seas which comes into any port of the United Kingdom, the following provisions shall have effect:

(1.) This Act shall be construed as if any stipendiary magistrate in England or Ireland, and any sheriff or sheriff substitute in Scotland, were substituted for the police magistrate throughout this Act, except the part relating to the execution of the warrant of the police magistrate:

(2.) The criminal may be committed to any prison to which the person committing him has power to commit persons accused of the like crime:

(3.) If the fugitive criminal is apprehended on a warrant issued without the order of a Secretary of State, he shall be brought before the stipendiary magistrate, sheriff, or sheriff substitute who issued the warrant, or who has jurisdiction in the port where the vessel lies, or in the place nearest to that port.

Fugitive Criminals in British Possessions.

Proceedings as to fugitive criminals in British Possessions.

XVII. This Act, when applied by Order in Council, shall, unless it is otherwise provided by such order, extend to every British possession in the same manner as if throughout this Act the British possession were substituted for the United Kingdom or England, as the case may require, but with the following modifications; namely,

(1.) The requisition for the surrender of a fugitive criminal who is in or suspected of being in a British possession may be made to the Governor of that British possession by any person recognized by that Governor as a consul general, consul, or vice-consul, or (if the fugitive criminal has escaped from a colony or dependency of the Foreign State on behalf of which the requisition is made) as the Governor of such colony or dependency:

(2.) No warrant of a Secretary of State shall be required, and all powers vested in or acts authorized or required to be done under this Act by the police magistrate and the Secretary of State, or either of them, in relation to the surrender of a fugitive criminal, may be done by the Governor of the British possession alone:

(3.) Any prison in the British possession may be substituted for a prison in Middlesex:

(4.) A judge of any court exercising in the British possession the like powers as the Court of Queen's Bench exercises in England may exercise the power of discharging a criminal when not conveyed within two months out of such British possession.

Saving of laws of British possessions.

XVIII. If by any law or ordinance, made before or after the passing of this Act by the Legislature of any British possession, provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or suspected of being in such British possession, Her Majesty may, by the order in Council applying this Act in the case of any Foreign State, or by any subsequent order, either

suspend the operation within any such British possession of this Act, or of any part thereof, so far as it relates to such Foreign State, and so long as such law or ordinance continues in force there, and no longer;

or direct that such law or ordinance, or any part thereof, shall have effect in such British possession, with or without modifications and alterations, as if it were part of this Act.

General Provisions.

Criminal surrendered by Foreign State not triable for previous crime.

XIX. Where, in pursuance of any arrangement with a Foreign State, any person accused or convicted of any crime which, if committed in England, would be one of the crimes described in the first schedule to this Act is surrendered by that Foreign State, such person shall not, until he has been restored or had an opportunity of returning to such Foreign State, be triable or tried for any offence committed prior to the surrender in any part of Her Majesty's dominions other than such of the said crimes as may be proved by the facts on which the surrender is grounded.

As to use of forms in second schedule.

XX. The forms set forth in the second schedule to this Act, or forms as near thereto as circumstances admit, may be used in all matters to which such forms refer, and in the case of a British possession may be so used, *mutatis mutandis*, and when used shall be deemed to be valid and sufficient in law.

Revocation, &c., of order in Council.

XXI. Her Majesty may, by order in Council, revoke or alter, subject to the restrictions of this Act, any order in Council made in pursuance of this Act, and all the provisions of this Act with respect to the original order shall (so far as applicable) apply, *mutatis mutandis*, to any such new order.

Application of Act in Channel Islands and Isle of Man.

XXII. This Act (except so far as relates to the execution of warrants in the Channel Islands) shall extend to the Channel Islands and Isle of Man in the same manner as if they were part of the United Kingdom; and the royal courts of the Channel Islands are hereby respectively authorized and required to register this Act.

Saving for Indian treaties.

XXIII. Nothing in this Act shall affect the lawful powers of Her Majesty or of the Governor General of India in Council to make treaties for the extradition of criminals with Indian native states or with other Asiatic States conterminous with British India, or to carry into execution the provisions of any such treaties made either before or after the passing of this Act.

Power of Foreign State to obtain evidence in United Kingdom.

XXIV. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in a Foreign State in like manner as it may be obtained in relation to any civil matter under the Act of the session of the nineteenth

and twentieth years of the reign of Her present Majesty, chapter one hundred and thirteen, intituled "An Act to provide for taking evidence in Her Majesty's Dominions in relation to civil and commercial matters pending before foreign tribunals;" and all the provisions of that Act shall be construed as if the term civil matter included a criminal matter, and the term cause included a proceeding against a criminal: Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

Foreign State includes dependencies.

XXV. For the purposes of this Act, every colony, dependency, and constituent part of a Foreign State, and every vessel of that State, shall (except where expressly mentioned as distinct in this Act) be deemed to be within the jurisdiction of and to be part of such Foreign State.

Definition of terms.

XXVI. In this Act, unless the context otherwise requires,—

"British possession."

The term "British possession" means any colony, plantation, island, territory or settlement within Her Majesty's dominions, and not within the United Kingdom, the Channel Islands, and Isle of Man; and all colonies, plantations, islands, territories, and settlements under one legislature, as hereinafter defined, are deemed to be one British possession:

"Legislature."

The term "legislature" means any person or persons who can exercise legislative authority in a British possession; and where there are local legislatures as well as a central legislature, means the central legislature only:

"Governor."

The term "Governor" means any person or persons administering the Government of a British possession, and includes the Governor of any part of India:

"Extradition crime."

The term "extradition crime" means a crime which, if committed in England or within English jurisdiction, would be one of the crimes described in the first schedule to this Act:

"Conviction."

The terms "conviction" and "convicted" do not include or refer to a conviction which under foreign law is a conviction for contumacy, but the term "accused person" includes a person so convicted for contumacy:

"Fugitive criminal."

"Fugitive criminal of a Foreign State."

The term "fugitive criminal" means any person accused or convicted of an extradition crime committed within the jurisdiction of any Foreign State who is in or is suspected of being in some part of Her Majesty's dominions; and the term "fugitive criminal of a Foreign State" means a fugitive criminal accused or convicted of an extradition crime committed within the jurisdiction of that State:

"Secretary of State."

The term "Secretary of State" means one of Her Majesty's Principal Secretaries of State.

"Police Magistrate."

The term "police magistrate" means a chief magistrate of the metropolitan police courts, or one of the other magistrates of the metropolitan police court in Bow Street:

"Justice of the Peace."

The term "justice of the peace" includes in Scotland any sheriff, sheriff substitute, or magistrate:

"Warrant" The term "warrant" in the case of any Foreign State includes any judicial document authorizing the arrest of a person accused or convicted of crime.

Repeal of Acts.

Repeal of Acts in third schedule. XXVII. The Acts specified in the third schedule to this Act are hereby repealed as to the whole of Her Majesty's dominions; and this Act (with the exception of anything contained in it which is inconsistent with the treaties referred to in the Acts so repealed) shall apply (as regards crimes committed either before or after the passing of this Act), in the case of the Foreign States with which those treaties are made, in the same manner as if an order in Council referring to such treaties had been made in pursuance of this Act, and as if such order had directed that every law and ordinance which is in force in any British possession with respect to such treaties should have effect as part of this Act.

Provided that if any proceedings for or in relation to the surrender of a fugitive criminal have been commenced under the said Acts previously to the repeal thereof, such proceedings may be completed, and the fugitive surrendered, in the same manner as if this Act had not passed.

SCHEDULES.

First Schedule.

List of Crimes.

The following list of crimes is to be construed according to the law existing in England, or in a British possession (as the case may be), at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act:

Murder, and attempt and conspiracy to murder.

Manslaughter.

Counterfeiting and altering money and uttering counterfeit or altered money.

Forgery, counterfeiting, and altering, and uttering what is forged or counterfeited or altered.

Embezzlement and larceny.

Obtaining money or goods by false pretences.

Crimes by bankrupts against bankruptcy law.

Fraud by a bailee, banker, agent, factor, trustee or director, or member, or public officer of any company made criminal by any Act for the time being in force.

Rape.

Abduction.

Child-stealing.

Burglary and house-breaking.

Arson.

Robbery with violence.

Threats by letter or otherwise with intent to extort.

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Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

Second Schedule.

Form of Order of Secretary of State to the Police Magistrate.

To the chief magistrate of metropolitan police courts *or* other magistrate of the metropolitan police court in Bow Street [*or* the stipendiary magistrate at].

Whereas, in pursuance of an arrangement with , referred to in an Order of Her Majesty in Council dated the day of , requisition has been made to me , one of Her Majesty's Principal Secretaries of State, by , the diplomatic representative, of , for the surrender of late of , accused [*or* convicted] of the commission of the crime of within the jurisdiction of : Now I hereby, by this my order under my hand and seal, signify to you that such requisition has been made, and require you to issue your warrant for the apprehension of such fugitive, provided that the conditions of The Extradition Act, 1870, relating to the issue of such warrant, are in your judgment complied with.

Given under the hand and seal of the undersigned, one of Her Majesty's Principal Secretaries of State, this day of 18 .

Form of Warrant of Apprehension by Order of Secretary of State.

Metropolitan police district, [*or* county *or* borough of to wit.] To all and each of the constables of the metropolitan police force [*or* of the county *or* borough of].

Whereas the Right Honourable one of Her Majesty's Principal Secretaries of State, by order under his hand and seal, hath signified to me that requisition hath been duly made to him for the surrender of late of accused [*or* convicted] of the commission of the crime of within the jurisdiction of : This is therefore to command you in Her Majesty's name forthwith to apprehend the said pursuant to the Extradition Act, 1870, wherever he may be found in the United Kingdom or Isle of Man, and bring him before me or some other [*magistrate sitting in this court,] to show cause why he should not be surrendered in pursuance of the said Extradition Act, for which this shall be your warrant.

Given under my hand and seal at [*Bow Street, one of the police courts of the metropolis] this day of 18 .

J. P.

* *Note.*—Alter as required.

FORM OF WARRANT OF APPREHENSION WITHOUT ORDER OF SECRETARY OF STATE.

Metropolitan police district, [*or* county *or* borough of] to wit. } To all and each of the constables of the metropolitan police force [*or* of the county *or* borough of].

WHEREAS it has been shown to the undersigned, one of Her Majesty's justices of the peace in and for the metropolitan police district [*or* the said county *or* borough of] that late of is accused [*or* convicted] of the commission of the crime of within the jurisdiction of : This is therefore to command you in Her Majesty's name forthwith to apprehend the said and to bring him before me or some other magistrate sitting at this court [*or* one of Her Majesty's justices of the peace in and for the county [*or* borough of] to be further dealt with according to law, for which this shall be your warrant.

Given under my hand and seal at Bow Street, one of the police courts of the metropolis, [*or* in the county *or* borough aforesaid] this day of 18 .

J. P.

FORM OF WARRANT FOR BRINGING PRISONER BEFORE THE POLICE MAGISTRATE.

County [*or* borough] of to wit. } To constable of the police force of and to all other peace officers in the said county [*or* borough] of .

WHEREAS late of accused [*or* alleged to be convicted of] the commission of the crime of within the jurisdiction of has been apprehended and brought before the undersigned, one of Her Majesty's justices of the peace in and for the said county [*or* borough] of And whereas by the Extradition Act, 1870, he is required to be brought before the chief magistrate of the metropolitan police court, or one of the police magistrates of the metropolis sitting at Bow Street, within the metropolitan police district [*or* the stipendiary magistrate for]: This is therefore to command you the said constable, in Her Majesty's name forthwith to take and convey the said to the metropolitan police district [*or* the said] and there carry him before the said chief magistrate or one of the police magistrates of the metropolis sitting at Bow Street within the said district [*or* before a stipendiary magistrate sitting

in the said] to show cause why he should not be surrendered in pursuance of The Extradition Act, 1870, and otherwise to be dealt with in accordance with law, for which this shall be your warrant.

Given under my hand and seal at in the county [*or* borough] aforesaid this day of 18 .

J. P.

FORM OF WARRANT OF COMMITTAL.

Metropolitan police district [*or* the county *or* borough of] to wit.

To one of the constables of the metropolitan police force [*or* of the police force of the county *or* borough of], and to the keeper of the .

BE it remembered, that on this day of in the year of our Lord late of is brought before me the chief magistrate of the metropolitan police courts [*or* one of the police magistrates of the metropolis] sitting at the police court in Bow Street, within the metropolitan police district, [*or* a stipendiary magistrate for ,] to show cause why he should not be surrendered in pursuance of The Extradition Act, 1870, on the ground of his being accused [*or* convicted] of the commission of the crime of within the jurisdiction of , and forasmuch as no sufficient cause has been shown to me why he should not be surrendered in pursuance of the said Act.

This is therefore to command you the said constable, in Her Majesty's name forthwith to convey and deliver the body of the said into the custody of the said keeper of the at , and you the said keeper, to receive the said into your custody, and him there safely to keep until he is thence delivered pursuant to the provisions of the said Extradition Act, for which this shall be your warrant.

Given under my hand and seal at Bow Street, one of the police courts of the metropolis [*or* at the said] this day of 18 .

J. P.

FORM OF WARRANT OF SECRETARY OF STATE FOR SURRENDER OF FUGITIVE.

To the keeper of and to

WHEREAS late of accused [*or* convicted] of the commission of the crime of within the jurisdiction of was delivered into the custody of you the keeper of by warrant dated pursuant to The Extradition Act, 1870 :

Now I do hereby, in pursuance of the said Act, order you the said keeper to deliver the body of the said into the custody of the said , and I command you, the said to receive the said into your custody, and to convey him within the jurisdiction of the said , and there place him in the custody of any person or persons appointed by the said to receive him, for which this shall be your warrant.

Given under the hand and seal of the undersigned, one of Her Majesty's Principal Secretaries of State, this day of 18 .

THIRD SCHEDULE.

Year and Chapter.	Title.
6 and 7 Vic., c. 75 ...	An Act for giving effect to a convention between Her Majesty and the King of the French for the apprehension of certain offenders.
6 and 7 Vic., c. 76 ...	An Act for giving effect to a treaty between Her Majesty and the United States of America for the apprehension of certain offenders.
8 and 9 Vic., c. 120 ...	An Act for facilitating execution of the treaties with France and the United States of America for the apprehension of certain offenders.
25 and 26 Vic., c. 70 ...	An Act for giving effect to a convention between Her Majesty and the King of Denmark for the mutual surrender of criminals.
29 and 30 Vic., c. 121 ...	An Act for the amendment of the law relating to treaties of extradition.

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33 & 34 VICTORIÆ, CAP. LV.

AN ACT *to vest Jurisdiction in matters arising within the Dominions of the Kings of Siam in the Supreme Court of the Straits Settlements.*

[*9th August* 1870.]

33 & 34 VICTORIÆ, CAP. LIX.

AN ACT *to render valid certain Contracts informally executed in India.*

[*9th August* 1870.]

22 & 23 Vict. c. 41.

WHEREAS by an Act passed in the twenty-second and twenty-third years of the reign of Her present Majesty, amending an Act passed in the twenty-first and twenty-second

years of the reign of Her present Majesty, intituled "An Act for the better Government of India," it was provided that any deed, contract, or other instrument made by the authorities therein named for the purpose of disposing of real and personal estate in India vested in Her Majesty under the said last-mentioned Act, or of raising money on such real estate by way of mortgage, or of making proper assurance for that purpose, or of purchasing and acquiring any lands and hereditaments, or any interest therein, stores, goods, chattels, and other property in India, and of entering into any contracts whatsoever for the purposes of the said first-mentioned Act, may be expressed to be executed as on behalf of the Secretary of State for India in Council, by or by order of the Governor General in Council, or the Governor of Fort Saint George or of Bombay in Council:

And whereas by an Act passed in the thirty-second and thirty-third years of Her said Majesty it was recited, that certain deeds had been issued for Inam lands in the Presidency of Fort Saint George by the Inam commissioner in the execution of his office in that respect, which, by reason of certain defects in the expression of the execution thereof, it was apprehended might be invalid; and provision was thereupon made by the said last-mentioned Act that the said title deeds should not be deemed invalid by reason of such defects:

And whereas it is apprehended that other deeds, contracts, and instruments made for the purpose expressed in the said first-recited Act, besides such title deeds as aforesaid, may be invalid or deemed invalid for the like reason, and such provision as aforesaid should therefore be made more general:

Be it enacted, &c.

Deeds, contracts, and instruments executed in India valid notwithstanding certain defects of execution.

I. Every deed, contract, or other instrument made in India for the purposes and by the authorities expressed in the said first-recited Act up to the date of the passing of this Act, and for any further period within the limit of one year to which the Governor General in Council may deem it advisable to extend the operation of this Act, which is expressed to be executed by or by order of or on behalf of the Governor General of India in Council, the Governor of Fort Saint George in Council, or the Governor of Bombay in Council, or by any Lieutenant Governor or Chief Commissioner, or any other officer for the time being entrusted with the government, charge, or care of any presidency, province, or district of British India within the limits of their respective governments, provinces, or districts, and every deed, contract, or other instrument so executed in British India by any person authorised in this behalf by the Secretary of State for India in Council, shall be and be deemed to have been as valid as if it had been executed in conformity with the provisions of the said first-recited Act; provided that such deed, contract, or other instrument has been in other respects duly executed according to the law in force at the date of its execution.

Power to authorities in India to vary forms of execution.

II. It shall be lawful for the Governor General, by resolution in Council, from time to time to vary the form of execution prescribed by the said first-recited Act for the deeds,

contracts, and other instruments to which it relates, and to empower such authorities as to him may seem expedient to vary it within the respective limits of their local jurisdiction; and deeds, contracts, and other instruments executed according to forms so altered shall have in all respects the like validity as if they had been executed according to the provisions of the said first-recited Act.

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33 & 34 VICTORIÆ, CAP. LXVII.

An Act to shorten the time of Active Service in the Army, and to amend in certain respects the Law of Enlistment.

[*9th August* 1870.]

Whereas it is expedient to shorten the period of army service of soldiers enlisted to serve in Her Majesty's army, and to establish a reserve force which may be called into active service in a time of emergency; and also to amend in certain respects the law of enlistment in Her Majesty's army:

Be it enacted, &c.

Short title.

I. This Act may be cited as "The Army Enlistment Act, 1870."

Twelve years the limit of enlistment.

II. From and after the passing of this Act, no person shall be enlisted for the first term of his engagement to serve Her Majesty as a soldier for a longer period than twelve years, to be reckoned from the day on which the recruit is attested for service.

Terms of enlistment.

III. Enlistments under this Act shall be as follows: either

(1.) For the whole of the said period, in army service; or

(2.) For a portion of the said period, to be fixed from time to time by the Secretary of State and specified in the attestation paper, in army service, and for the residue thereof in the first class of the reserve force established under the provisions of the Reserve Force Act, 1867; but nothing in this clause shall interfere with the power of Her Majesty to enlist men for a less period than twelve years in army service alone.

Change of service.

IV. The Secretary of State may from time to time by general or special regulations vary the conditions of service so as to permit a soldier who has served not less than three years in army service, with such soldiers' free assent, either

(1.) To enter the reserve force at once for the residue unexpired of his term of twelve years; or

(2.) To extend his army service for the residue unexpired of his term of twelve years.

In imminent national danger, Her Majesty may continue soldiers in army service.

V. It shall be lawful for Her Majesty, in case of imminent national danger or of great emergency, the occasion being first communicated to Parliament if Parliament be then sitting, or declared by proclamation, in pursuance of an order of Her Majesty in Council, if Parliament be not then sitting, to direct that any soldier enlisted under this

Act shall at any time within the period of twelve years for which he has been enlisted continue in or re-enter upon army service for such periods from time to time, not exceeding in the whole the unexpired residue of the term of his enlistment, as Her Majesty may determine; and upon such order being issued every soldier to whom it applies shall be bound to obey the same in the same manner as if it had formed part of this Act. When any such soldier is directed to re-enter upon army service under this section, it shall be lawful for the military authorities to attach him to any regiment of that arm or branch of the service in which he has previously served.

Enlistment for general service, &c.

VI. From and after the passing of this Act, all enlistments, except as herein-after mentioned, shall be for general service; and it shall be lawful for the military authorities to post any recruit so enlisted to any regiment or corps, and at any time within fifteen months after his attestation to direct him to be attached to any regiment or corps; but the Secretary of State may, from time to time, by any general or special regulations, permit recruits to be enlisted for particular regiments, and in such case they shall at once be attached to such regiments.

Effect of attachment to a regiment.

VII. When a soldier has been attached to a regiment or corps he shall serve therein for the period of his army service; provided that it shall be lawful for the military authorities to transfer him to any regiment or corps of the same arm or branch of the service serving in the United Kingdom, in the following cases;

(1.) When he has been invalided from foreign service;

(2.) When, in the case of his regiment or corps being ordered on foreign service, he is either unfit for foreign service by reason of his health, or is within two years of the termination of the period of his army service, or of his enlistment, or of such re-engagement as is herein-after mentioned;

and to a regiment or corps of the same arm or branch of the service serving abroad, when, in the case of his regiment or corps being on foreign service, and ordered to return home, he has more than two years to serve previous to the termination of the period of his army service: Provided that the power of transfer in this case shall not apply to any man who enlists for the whole of the period of twelve years in army service, or to any man who, having enlisted for a portion of the said period in army service, has extended his army service for the residue unexpired of his term of twelve years, or to any man who has re-engaged.

Provided also, that nothing in this section contained shall affect the powers of transferring soldiers contained in any Act for punishing mutiny and desertion, and for the better payment of the army and for their quarters, for the time being in force.

Re-engagement of soldiers.

VIII. Any soldier

(1.) Who being in army service has commenced the twelfth year from his first enlistment, or

(2.) Who being within three years of the expiration of his first enlistment and in army service has been ordered but has not yet proceeded on foreign service,

may, with the approval of his commanding officer or of some other competent military authority, and subject to such regulations as may from time to time be made by the Secretary of State, be re-engaged for such further period of army service as will make up a total continuous period of twenty-one years in Her Majesty's service, reckoning from the time of his first enlistment.

Limit of numbers

IX. The number of men serving in the militia reserve under the Militia Reserve Act, 1867, and in the army reserve, first class, under the Reserve Force Act, 1867, and this Act, shall not exceed in the whole sixty thousand.

Continuance in Her Majesty's service after twenty-one years therein.

X. Any soldier who has completed a total period of twenty-one years' service may give notice to his commanding officer of his desire to continue in Her Majesty's service; and if his commanding officer or any other competent military authority approve of such application, he may be continued as a soldier in the same manner in all respects as if his term of service were still unexpired, except that it shall be lawful for him to claim his discharge at the expiration of any period of three months after he has given notice to his commanding officer of his wish to be discharged.

Prolongation of enlistment in certain cases

XI. Any soldier whose period of army service or whose whole period of enlistment, as the case may be, expires while a state of war exists between Her Majesty and any foreign power, or while he is serving on foreign service, or on any colonial or Indian station, may be detained and his service may be prolonged for such further period not exceeding twelve months as the Secretary of State or the commanding officer at the station may direct; but at the expiration of such prolonged service, or sooner, if the said Secretary of State or commanding officer see fit, such soldier shall be transferred to the reserve force or discharged, as the case may be, and if serving abroad he shall, unless he desires to remain at the place where he is serving, be sent home at the public charge, with all convenient speed, and after his arrival he shall be transferred to the reserve force or discharged, as the case may be.

Rules for reckoning service.

XII. In reckoning the service of a soldier for the purposes of discharge under the provisions of this Act, all periods of time shall be excluded during which he has been absent from his duty for any of the following causes; that is to say,

(1.) Imprisonment; provided that imprisonment shall not for the purposes of this section include detention in respect of any trial which results in the acquittal or discharge of the prisoner.

(2.) Desertion.

(3.) Absence without leave exceeding five days.

(4.) Detention as a prisoner of war, unless it appear to the satisfaction of a court-martial to be summoned on his rejoining Her Majesty's service that he was not taken prisoner through his own wilful neglect of duty, and that he rejoined as soon as he could and ought to have done.

Discharge on completion of service.

XIII. Every soldier who has completed his period of service or of army service, according to the provisions of this Act, shall be entitled to his discharge, or transfer to the reserve force, as the case may be, unless at the time of the expiration of such period of service he stands charged with the commission of any offence, in which case his discharge or transfer to the reserve force shall be deferred, until he has undergone his trial and any punishment awarded to him.

Provisions in Reserve Force Act, 1867, and Militia Reserve Act, 1867, as to calling reserve and militia into active service extended to cases of imminent national danger

XIV. Whereas by the Reserve Force Act, 1867, section ten, it is provided that in case of actual invasion or imminent danger thereof, or in case a state of war exists between Her Majesty and any foreign power, it shall be lawful for Her Majesty by proclamation to direct that the reserve force by that Act constituted, or such part thereof as Her Majesty may think fit, be called out on permanent service :

30 & 31 Vic., c. 110, s. 10. 30 & 31 Vic., c. 111, s. 8.

And whereas by the Militia Reserve Act, 1867, section eight, it is provided that whenever a state of war exists between Her Majesty and any foreign power, and in all cases of actual invasion or imminent danger thereof, it shall be lawful for Her Majesty to order that the men enlisted under the said Act or such of them as Her Majesty may judge necessary shall enter upon army service :

And whereas it is expedient to assimilate the conditions under which men of the reserve force established under the said Acts of one thousand eight hundred and sixty-seven may be called to enter upon army service to those under which men enlisted under this Act may be directed to continue in or re-enter upon army service. Be it enacted as follows :

(1.) Section ten of the Reserve Force Act, 1867, shall be construed as if the words "in case of imminent national danger or of great emergency, the occasion being first communicated to Parliament if Parliament be then sitting, or declared by proclamation," were inserted in the said section in place of the words "in case of actual invasion or imminent danger thereof, or in case a state of war exists between Her Majesty and any foreign power;"

(2.) Section eight of the Militia Reserve Act, 1867, shall be construed as if the words "in case of imminent national danger or of great emergency, the occasion being first communicated to Parliament if Parliament be then sitting, or declared by proclamation," were inserted in the said section in place of the words "whenever a state of war exists between Her Majesty and any foreign power, and in all cases of actual invasion or imminent danger thereof."

Provided that nothing in this section contained shall affect any person enlisted under the said Acts of one thousand eight hundred and sixty-seven before this Act comes into operation, except with his own consent.

Soldiers who have exceeded the first term of their engagement may be enrolled in reserve.

XV. From and after the passing of this Act any soldier who is serving or has served in any of Her Majesty's regular forces, and whose service (or past service) has exceeded the first term of his enlistment, may be enrolled to serve in the first class of the reserve force established under the Army Reserve Act, 1867; provided that no such soldier is when so enrolled above the age of thirty-four years.

Power of Secretary of State to issue orders and forms.

XVI. The Secretary of State may from time to time issue such orders and forms for enlisting recruits and for otherwise carrying into effect this Act as he thinks expedient, and any orders and forms so issued shall be of the same force as if expressly enacted in this Act.

Saving of provisions of Acts relating to enlistment.

XVII. All provisions of any Act of Parliament for the time being in force relating to the enlistment of recruits for Her Majesty's army shall, in so far as they are not inconsistent with this Act, be deemed to be incorporated with this Act, and to apply accordingly to any enlistments made in pursuance of this Act.

Application of Act to men under Army Enlistment Act, 1867.

XVIII. This Act shall apply to men serving for the first term of their enlistment under the Act of the session holden in the tenth and eleventh years of Her Majesty's reign, chapter thirty-seven, intituled "an Act for limiting the term of service in the army," and the Army Enlistment Act, 1867, in the same manner as if they had been enlisted under this Act; provided that this Act shall not be applied to any man enlisted under such last-mentioned Act, except with his own consent.

Training of first class of reserve force.

XIX. The Secretary of State may from time to time make regulations for the training of persons serving in pursuance of this Act in the first class of the reserve force in such manner and during such periods as he may consider to interfere as little as possible with their ordinary trades or occupations, and as do not exceed in any one year twelve whole days or twenty drills.

Service of notices on reserve force.

XX. The Secretary of State may require the chief officer of police in every district in the United Kingdom to cause to be served within his district any notice the Secretary of State may desire to be served on any members of the reserve forces in such district; and all officers and men of every police force shall conform to the orders of the said Secretary of State in relation to the service of such notices given through such officer.

"The reserve forces" shall mean the army reserve, the militia reserve, and any other reserve forces as defined by Act of Parliament, also the militia, yeomanry, volunteers, and any other land forces whatever within the United Kingdom, serving or liable to be called upon to serve Her Majesty in any military capacity and not forming part of the regular army.

XXI. From and after the passing of this Act, section eight of the Reserve Force Act, 1867, and all enactments inconsistent with this Act, shall be repealed. Repeal.

XXII. The Secretary of State shall mean any one of Her Majesty's Principal Secretaries of State. Definition of Secretary of State.

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33 & 34 VICTORIÆ, CAP. XC.

AN ACT *to regulate the conduct of Her Majesty's Subjects during the existence of hostilities between foreign states with which Her Majesty is at peace.*

[*9th August* 1870].

WHEREAS it is expedient to make provision for the regulation of the conduct of Her Majesty's subjects during the existence of hostilities between foreign states with which Her Majesty is at peace:

Be it enacted, &c.

Preliminary.

I. This Act may be cited for all purposes as "The Foreign Enlistment Act, 1870." Short title of Act.

II. This Act shall extend to all the dominions of Her Majesty, including the adjacent territorial waters. Application of Act.

III. This Act shall come into operation in the United Kingdom immediately on the passing thereof, and shall be proclaimed in every British possession by the governor thereof as soon as may be after he receives notice of this Act, and shall come into operation in that British possession on the day of such proclamation, and the time at which this Act comes into operation in any place is, as respects such place, in this Act referred to as the commencement of this Act. Commencement of Act.

Illegal Enlistment.

IV. If any person, without the license of Her Majesty, being a British subject, within or without Her Majesty's dominions, accepts or agrees to accept any commission or engagement in the military or naval service of any foreign state at war with any foreign state at peace with Her Majesty, and in this Act referred to as a friendly state, or whether a British subject or not within Her Majesty's dominions, induces any other person to accept or agree to accept any commission or engagement in the military or naval service of any such foreign state as aforesaid,— Penalty on enlistment in service of foreign state.

He shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

V. If any person, without the license of Her Majesty, being a British subject, quits or goes on board any ship with a view of quitting Her Majesty's dominions, with intent to accept any commission or engagement in the military or naval service of any Penalty on leaving Her Majesty's dominions with intent to serve a foreign state.

foreign state at war with a friendly state, or, whether a British subject or not, within Her Majesty's dominions, induces any other person to quit or to go on board any ship with a view of quitting Her Majesty's dominions with the like intent,—

He shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

Penalty on embarking persons under false representations as to service.

VI. If any person induces any other person to quit Her Majesty's dominions or to embark on any ship within Her Majesty's dominions under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state,—

He shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

Penalty on taking illegally enlisted persons on board ship.

VII. If the master or owner of any ship, without the license of Her Majesty, knowingly either takes on board, or engages to take on board, or has on board such ship within Her Majesty's dominions any of the following persons, in this Act referred to as illegally enlisted persons; that is to say,

(1.) Any person who, being a British subject within or without the dominions of Her Majesty, has, without the license of Her Majesty, accepted or agreed to accept any commission or engagement in the military or naval service of any foreign state at war with any friendly state:

(2.) Any person, being a British subject, who, without the license of Her Majesty, is about to quit Her Majesty's dominions with intent to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state:

(3.) Any person who has been induced to embark under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state:

Such master or owner shall be guilty of an offence against this Act, and the following consequences shall ensue; that is to say,

(1.) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour: and

(2.) Such ship shall be detained until the trial and conviction or acquittal of the master or owner, and until all penalties inflicted on the master or owner have been paid, or the master or owner has given security for the payment of such penalties to the satisfaction of two justices of the peace, or other magistrate or magistrates having the authority of two justices of the peace: and

(3.) All illegally enlisted persons shall immediately on the discovery of the offence be taken on shore, and shall not be allowed to return to the ship.

Illegal Shipbuilding and Illegal Expeditions.

VIII. If any person within Her Majesty's dominions, without the license of Her Majesty, does any of the following acts; that is to say,— Penalty on illegal shipbuilding and illegal expeditions.

(1.) Builds or agrees to build, or causes to be built any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state: or

(2.) Issues or delivers any commission for any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state: or

(3.) Equips any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state: or

(4.) Despatches, or causes or allows to be despatched, any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state:

Such person shall be deemed to have committed an offence against this Act, and the following consequences shall ensue:

(1.) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour

(2.) The ship in respect of which any such offence is committed, and her equipment, shall be forfeited to Her Majesty:

Provided that a person building, causing to be built, or equipping a ship in any of the cases aforesaid, in pursuance of a contract made before the commencement of such war

as aforesaid, shall not be liable to any of the penalties imposed by this section in respect of such building or equipping if he satisfies the conditions following; (that is to say,)

(1.) If forthwith upon a proclamation of neutrality being issued by Her Majesty he gives notice to the Secretary of State that he is so building, causing to be built, or equipping such ship, and furnishes such particulars of the contract and of any matters relating to, or done, or to be done under the contract as may be required by the Secretary of State:

(2.) If he gives such security, and takes and permits to be taken such other measures, if any, as the Secretary of State may prescribe for ensuring that such ship shall not be despatched, delivered, or removed without the license of Her Majesty until the termination of such war as aforesaid.

Presumption as to evidence in case of illegal ship.

IX. Where any ship is built by order of or on behalf of any foreign state when at war with a friendly state, or is delivered to or to the order of such foreign state, or any person who to the knowledge of the person building is an agent of such foreign state, or is paid for by such foreign state or such agent, and is employed in the military or naval service of such foreign state, such ship shall, until the contrary is proved, be deemed to have been built with a view to being so employed, and the burden shall lie on the builder of such ship of proving that he did not know that the ship was intended to be so employed in the military or naval service of such foreign state.

Penalty on aiding the warlike equipment of foreign ships.

X. If any person within the dominions of Her Majesty, and without the license of Her Majesty,—

By adding to the number of the guns, or by changing those on board for other guns, or by the addition of any equipment for war, increases or augments, or procures to be increased or augmented, or is knowingly concerned in increasing or augmenting the warlike force of any ship which at the time of her being within the dominions of Her Majesty was a ship in the military or naval service of any foreign state at war with any friendly state,—

Such person shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

Penalty on fitting out naval or military expeditions without license.

XI. If any person within the limits of Her Majesty's dominions, and without the license of Her Majesty,—

Prepares or fits out any naval or military expedition to proceed against the dominions of any friendly state, the following consequences shall ensue:

(1). Every person engaged in such preparation or fitting out, or assisting therein, or employed in any capacity in such expedition, shall be guilty of an offence

against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

(2). All ships, and their equipments, and all arms and munitions of war, used in or forming part of such expedition, shall be forfeited to Her Majesty.

Punishment of accessories.

XII. Any person who aids, abets, counsels, or procures the commission of any offence against this Act shall be liable to be tried and punished as a principal offender.

Limitation of term of imprisonment.

XIII. The term of imprisonment to be awarded in respect of any offence against this Act shall not exceed two years.

Illegal Prize.

Illegal prize brought into British ports restored.

XIV. If, during the continuance of any war in which Her Majesty may be neutral, any ship, goods, or merchandise captured as prize of war within the territorial jurisdiction of Her Majesty, in violation of the neutrality of this realm, or captured by any ship which may have been built, equipped, commissioned, or despatched, or the force of which may have been augmented, contrary to the provisions of this Act, are brought within the limits of Her Majesty's dominions by the captor, or any agent of the captor, or by any person having come into possession thereof with knowledge that the same was prize of war so captured as aforesaid, it shall be lawful for the original owner of such prize, or his agent, or for any person authorised in that behalf by the Government of the foreign state to which such owner belongs, to make application to the Court of Admiralty for seizure and detention of such prize, and the court shall, on due proof of the facts, order such prize to be restored.

Every such order shall be executed and carried into effect in the same manner, and subject to the same right of appeal, as in case of any order made in the exercise of the ordinary jurisdiction of such court; and in the meantime and until a final order has been made on such application the court shall have power to make all such provisional and other orders as to the care or custody of such captured ship, goods, or merchandise, and (if the same be of perishable nature, or incurring risk of deterioration) for the sale thereof, and with respect to the deposit or investment of the proceeds of any such sale, as may be made by such Court in the exercise of its ordinary jurisdiction.

General Provision.

License by Her Majesty how granted.

XV. For the purposes of this Act, a license by Her Majesty shall be under the sign manual of Her Majesty, or be signified by Order in Council or by proclamation of Her Majesty.

Legal Procedure.

Jurisdiction in respect of offences by persons against Act.

XVI. Any offence against this Act shall, for all purposes of and incidental to the trial and punishment of any person guilty of any such offence, be deemed to have been

committed either in the place in which the offence was wholly or partly committed, or in any place within Her Majesty's dominions in which the person who committed such offence may be.

Venue in respect of offences by persons, 24 & 25 Vic., c. 97.

XVII. Any offence against this Act may be described in any indictment or other document relating to such offence, in cases where the mode of trial requires such a description, as having been committed at the place where it was wholly or partly committed, or it may be averred generally to have been committed within Her Majesty's dominions, and the venue or local description in the margin may be that of the county, city, or place in which the trial is held.

Power to remove offenders for trial.

XVIII. The following authorities, that is to say, in the United Kingdom any judge of a superior court, in any other place within the jurisdiction of any British court of justice, such court, or, if there are more courts than one, the court having the highest criminal jurisdiction in that place, may, by warrant or instrument in the nature of a warrant in this section included in the term "warrant," direct that any offender charged with an offence against this Act shall be removed to some other place in Her Majesty's dominions for trial in cases where it appears to the authority granting the warrant that the removal of such offender would be conducive to the interests of justice, and any prisoner so removed shall be triable at the place to which he is removed, in the same manner as if his offence had been committed at such place.

Any warrant for the purposes of this section may be addressed to the master of any ship or to any other person or persons, and the person or persons to whom such warrant is addressed shall have power to convey the prisoner therein named to any place or places named in such warrant, and to deliver him, when arrived at such place or places, into the custody of any authority designated by such warrant.

Every prisoner shall, during the time of his removal under any such warrant as aforesaid, be deemed to be in the legal custody of the person or persons empowered to remove him.

Jurisdiction in respect of forfeiture of ships for offences against Act.

XIX. All proceedings for the condemnation and forfeiture of a ship, or ship and equipment, or arms and munitions of war, in pursuance of this Act shall require the sanction of the Secretary of State or such chief executive authority as is in this Ac mentioned, and shall be had in the Court of Admiralty, and not in any other court; and the Court of Admiralty shall, in addition to any power given to the court by this Act, have in respect of any ship or other matter brought before it in pursuance of this Act all powers which it has in the case of a ship or matter brought before it in the exercise of its ordinary jurisdiction.

Regulations as to proceedings against the offender and against the ship.

XX. Where any offence against this Act has been committed by any person by reason whereof a ship, or ship and equipment, or arms and munitions of war, has or have become liable to forfeiture, proceedings may be instituted contemporaneously or not, as may be thought fit, against the offender in any Court having jurisdiction of the offence,

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and against the ship, or ship and equipment, or arms and munitions of war, for the the forfeiture in the Court of Admiralty; but it shall not be necessary to take proceedings against the offender because proceedings are instituted for the forfeiture, or to take proceedings for the forfeiture because proceedings are taken against the offender.

Officers authorised to seize offending ships.

XXI. The following officers, that is to say,

(1.) Any officer of customs in the United Kingdom, subject nevertheless to any special or general instructions from the Commissioners of Customs, or any officer of the Board of Trade, subject nevertheless to any special or general instructions from the Board of Trade;

(2.) Any officer of customs or public officer in any British possession, subject nevertheless to any special or general instructions from the Governor of such possession;

(3.) Any commissioned officer on full pay in the military service of the Crown, subject nevertheless to any special or general instructions from his commanding officer;

(4.) Any commissioned officer on full pay in the naval service of the Crown, subject nevertheless to any special or general instructions from the Admiralty or his superior officer,

may seize or detain any ship liable to be seized or detained in pursuance of this Act, and such officers are in this Act referred to as the "local authority;" but nothing in this Act contained shall derogate from the power of the Court of Admiralty to direct any ship to be seized or detained by any officer by whom such court may have power under its ordinary jurisdiction to direct a ship to be seized or detained.

Powers of officers authorised to seize ships.

XXII. Any officer authorised to seize or detain any ship in respect of any offence against this Act may, for the purpose of enforcing such seizure or detention, call to his aid any constable or officers of police, or any officers of Her Majesty's army or navy or marines, or any excise officers or officers of customs, or any harbour-master or dock-master, or any officers having authority by law to make seizures of ships, and may put on board any ship so seized or detained any one or more of such officers to take charge of the same, and to enforce the provisions of this Act, and any officer seizing or detaining any ship under this Act may use force, if necessary, for the purpose of enforcing seizure or detention, and if any person is killed or maimed by reason of his resisting such officer in the execution of his duties, or any person acting under his orders, such officer so seizing or detaining the ship, or other person, shall be freely and fully indemnified as well against the Queen's Majesty, Her heirs and successors, as against all persons so killed, maimed, or hurt.

Special power of Secretary of State or chief executive authority to detain ship.

XXIII. If the Secretary of State or the chief executive authority is satisfied that there is a reasonable and probable cause for believing that a ship within Her Majesty's dominions has been or is being built, commissioned, or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be

despatched contrary to this Act, such Secretary of State or chief executive authority shall have power to issue a warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant the local authority shall have power to seize and search such ship, and to detain the same until it has been either condemned or released by process of law, or in manner herein-after mentioned.

The owner of the ship so detained, or his agent, may apply to the Court of Admiralty for its release, and the court shall as soon as possible put the matter of such seizure and detention in course of trial between the applicant and the Crown.

If the applicant establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or equipped, or intended to be despatched contrary to this Act, the ship shall be released and restored.

If the applicant fail to establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or equipped, or intended to be despatched contrary to this Act, then the ship shall be detained till released by order of the Secretary of State or chief executive authority.

The court may in cases where no proceedings are pending for its condemnation release any ship detained under this section on the owner giving security to the satisfaction of the court that the ship shall not be employed contrary to this Act, notwithstanding that the applicant may have failed to establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or intended to be despatched contrary to this Act. The Secretary of State or the chief executive authority may likewise release any ship detained under this section on the owner giving security to the satisfaction of such Secretary of State or chief executive authority that the ship shall not be employed contrary to this Act, or may release the ship without such security if the Secretary of State or chief executive authority think fit so to release the same.

If the court be of opinion that there was not reasonable and probable cause for the detention, and if no such cause appear in the course of the proceedings, the court shall have power to declare that the owner is to be indemnified by the payment of costs and damages in respect of the detention, the amount thereof to be assessed by the court, and any amount so assessed shall be payable by the Commissioners of the Treasury out of any moneys legally applicable for that purpose. The Court of Admiralty shall also have power to make a like order for the indemnity of the owner, on the application of such owner to the court, in a summary way, in cases where the ship is released by the order of the Secretary of State or the chief executive authority, before any application is made by the owner or his agent to the court for such release.

Nothing in this section contained shall affect any proceedings instituted or to be instituted for the condemnation of any ship detained under this section where such ship is liable to forfeiture, subject to this provision, that if such ship is restored in pursuance of this section all proceedings for such condemnation shall be stayed; and where the court

declares that the owner is to be indemnified by the payment of costs and damages for the detainer, all costs, charges, and expenses incurred by such owner in or about any proceedings for the condemnation of such ship shall be added to the costs and damages payable to him in respect of the detention of the ship.

Nothing in this section contained shall apply to any foreign non-commissioned ship despatched from any part of Her Majesty's dominions after having come within them under stress of weather or in the course of a peaceful voyage, and upon which ship no fitting out or equipping of a warlike character has taken place in this country.

Special power of local authority to detain ship.

XXIV. Where it is represented to any local authority, as defined by this Act, and such local authority believes the representation, that there is a reasonable and probable cause for believing that a ship within Her Majesty's dominions has been or is being built, commissioned, or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, it shall be the duty of such local authority to detain such ship, and forthwith to communicate the fact of such detention to the Secretary of State or chief executive authority.

Upon the receipt of such communication the Secretary of State or chief executive authority may order the ship to be released if he thinks there is no cause for detaining her, but if satisfied that there is reasonable and probable cause for believing that such ship was built, commissioned, or equipped or intended to be despatched in contravention of this Act, he shall issue his warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant being issued further proceedings shall be had as in cases where the seizure or detention has taken place on a warrant issued by the Secretary of State without any communication from the local authority.

Where the Secretary of State or chief executive authority orders the ship to be released on the receipt of a communication from the local authority without issuing his warrant, the owner of the ship shall be indemnified by the payment of costs and damages in respect of the detention upon application to the Court of Admiralty in a summary way in like manner as he is entitled to be indemnified where the Secretary of State having issued his warrant under this Act releases the ship before any application is made by the owner or his agent to the court for such release.

Power of Secretary of State or executive authority to grant search warrant.

XXV. The Secretary of State or the chief executive authority may, by warrant, empower any person to enter any dockyard or other place within Her Majesty's dominions and inquire as to the destination of any ship which may appear to him to be intended to be employed in the naval or military service of any foreign state at war with a friendly state, and to search such ship.

Exercise of powers of Secretary of State or chief executive authority.

XXVI. Any powers or jurisdiction by this Act given to the Secretary of State may be exercised by him throughout the dominions of Her Majesty, and such powers and jurisdiction may also be exercised by any of the following officers, in this Act referred to as the chief executive authority, within their respective jurisdictions; that is to say,

(1). In Ireland by the Lord Lieutenant or other the chief Governor or Governors of Ireland for the time being, or the chief Secretary to the Lord Lieutenant:

(2). In Jersey by the Lieutenant Governor:

(3). In Guernsey, Alderney, and Sark, and the dependent islands by the Lieutenant Governor:

(4). In the Isle of Man by the Lieutenant Governor:

(5). In any British possession by the Governor.

A copy of any warrant issued by a Secretary of State or by any officer authorised in pursuance of this Act to issue such warrant in Ireland, the Channel Islands, or the Isle of Man shall be laid before Parliament.

Appeal from Court of Admiralty.

XXVII. An appeal may be had from any decision of a Court of Admiralty under this Act to the same tribunal and in the same manner to and in which an appeal may be had in cases within the ordinary jurisdiction of the court as a Court of Admiralty.

Indemnity to officers.

XXVIII. Subject to the provisions of this Act providing for the award of damages in certain cases in respect of the seizure or detention of a ship by the Court of Admiralty no damages shall be payable, and no officer or local authority shall be responsible, either civilly or criminally, in respect of the seizure or detention of any ship in pursuance of this Act.

Indemnity to Secretary of State or chief executive authority.

XXIX. The Secretary of State shall not, nor shall the chief executive authority, be responsible in any action or other legal proceedings whatsoever for any warrant issued by him in pursuance of this Act, or be examinable as a witness, except at his own request, in any court of justice in respect of the circumstances which led to the issue of the warrant.

Interpretation Clause.

Interpretation of terms.

XXX. In this Act, if not inconsistent with the context, the following terms have the meanings hereinafter respectively assigned to them; that is to say,

"Foreign state:"

"Foreign state" includes any foreign prince, colony, province, or part of any province or people, or any person or persons exercising or assuming to exercise the powers of Government in or over any foreign country, colony, province, or part of any province or people:

"Military service"

"Military service" shall include military, telegraphy and any other employment whatever, in or in connexion with any military operation:

"Naval service."

"Naval service" shall, as respects a person, include service as a marine, employment as a pilot in piloting or directing the course of a ship of war or other ship when such ship of war or other ship is being used in any military or naval operation, and any employment whatever on board a ship of war, transport, store ship, privateer or ship under letters of marque; and as respects a ship, include any user of a ship as a transport, store ship, privateer or ship under letters of marque:

"United Kingdom:"

"United Kingdom" includes the Isle of Man, the Channel Islands, and other adjacent islands:

"British possession" means any territory, colony, or place being part of Her Majesty's dominions, and not part of the United Kingdom, as defined by this Act: "British possession:"

"The Secretary of State" shall mean any one of Her Majesty's Principal Secretaries of State: "The Secretary of State:"

"The Governor" shall as respects India mean the Governor General or the governor of any presidency, and where a British possession consists of several constituent colonies, mean the Governor General of the whole possession or the Governor of any of the constituent colonies, and as respects any other British possession it shall mean the officer for the time being administering the government of such possession; also any person acting for or in the capacity of a governor shall be included under the term "Governor:" "Governor."

"Court of Admiralty" shall mean the High Court of Admiralty of England or Ireland, the Court of Session of Scotland, or any Vice-Admiralty Court within Her Majesty's dominions: "Court of Admiralty:"

"Ship" shall include any description of boat, vessel, floating battery, or floating craft; also any description of boat, vessel, or other craft or battery, made to move either on the surface of or under water, or sometimes on the surface of and sometimes under water: "Ship:"

"Building" in relation to a ship shall include the doing any act towards or incidental to the construction of a ship, and all words having relation to building shall be construed accordingly: "Building:"

"Equipping" in relation to a ship shall include the furnishing a ship with any tackle, apparel, furniture, provisions, arms, munitions, or stores, or any other thing which is used in or about a ship for the purpose of fitting or adapting her for the sea or for naval service, and all words relating to equipping shall be construed accordingly: "Equipping:"

"Ship and equipment" shall include a ship and everything in or belonging to a ship: "Ship and equipment:"

"Master" shall include any person having the charge or command of a ship. "Master"

Repeal of Acts, and Saving Clauses.

XXXI. From and after the commencement of this Act, an Act passed in the fifty-ninth year of the reign of His late Majesty King George the Third, chapter sixty-nine, intituled "An Act to prevent the enlisting or engagement of His Majesty's subjects to serve in foreign service, and the fitting out or equipping, in His Majesty's dominions, vessels for warlike purposes, without His Majesty's license," shall be repealed: Provided that such repeal shall not affect any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before this Act comes into operation, nor the institution of any investigation or legal proceeding, or any other remedy for enforcing any such penalty, forfeiture, or punishment as aforesaid. Repeal of Foreign Enlistment Act. 59 G. 3, c. 69.

Saving as to commissioned foreign ships.

XXXII. Nothing in this Act contained shall subject to forfeiture any commissioned ship of any foreign state, or give to any British court over or in respect of any ship entitled to recognition as a commissioned ship of any foreign state any jurisdiction which it would not have had if this Act had not passed.

Penalties not to extend to persons entering into military service in Asia. 59 G. 3, c. 69, s. 12.

XXXIII. Nothing in this Act contained shall extend or be construed to extend to subject to any penalty any person who enters into the military service of any prince, state, or potentate in Asia, with such leave or license as is for the time being required by law in the case of subjects of Her Majesty entering into the military service of princes, states, or potentates in Asia.

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33 & 34 VICTORIÆ, CAP. CII.

AN ACT *to amend the Law relating to the taking of Oaths of Allegiance on Naturalization.*

[10*th August* 1870.]

33 & 34 Vict., c. 14.

WHEREAS it is expedient to amend the law relating to the taking of oaths of allegiance under the Naturalization Act, 1870:

Be it enacted, &c.

Regulations as to oaths of allegiance.

1. The power of making regulations vested in one of Her Majesty's Principal Secretaries of State by the Naturalization Act, 1870, shall extend to prescribing as follows:

(1.) The persons by whom the oaths of allegiance may be administered under that Act:

(2.) Whether or not such oaths are to be subscribed as well as taken, and the form in which such taking and subscription are to be attested:

(3.) The registration of such oaths:

(4.) The persons by whom certified copies of such oaths may be given:

(5.) The transmission to the United Kingdom for the purpose of registration or safe keeping or of being produced as evidence of any oaths taken in pursuance of the said Act of the United Kingdom, or of any copies of such oaths, also of copies of entries of such oaths contained in any register kept out of the United Kingdom in pursuance of this Act:

(6.) The proof in any legal proceeding of such oaths:

(7.) With the consent of the Treasury, the imposition and application of fees in respect of the administration or registration of any such oath.

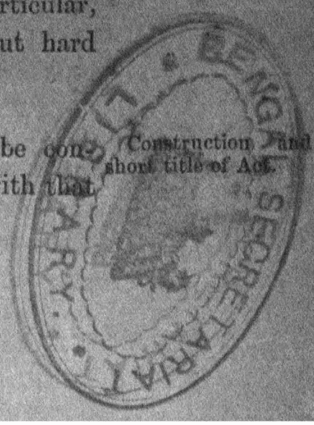
The two last paragraphs in the eleventh section of the Naturalization Act, 1870, shall apply to regulations made under this Act.

Penalty on making false declaration.

2. Any person wilfully and corruptly making or subscribing any declaration under the Naturalization Act, 1870, knowing the same to be untrue in any material particular, shall be guilty of a misdemeanor, and be liable to imprisonment with or without hard labour for any term not exceeding twelve months.

Construction and short title of Act.

3. This Act shall be termed the Naturalization Oath Act, 1870, and shall be construed as one with the Naturalization Act, 1870, and may be cited together with that Act as the Naturalization Acts, 1870.



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